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The land use act and resource conflicts in the Niger Delta of Nigeria, 1978 – 1993

Orlando OrluOmubo-Dede
Department Of History and International Studies,
University Of Uyo, Uyo,
AkwaIbom State, Nigeria

Abstract

To an average African, land is a free gift of nature that must be nurtured according to communal ethos and value system. This informed the collective ownership and equitable distribution of land through the family units, which guaranteed environmental justice to a very large extent in the pre-colonial era. But things changed for the worse during colonial era with the land grabbing and resource-sapping policies of the alien dictatorial powers. In order to salvage this situation, the post-colonial government promulgated land polices to give land back to the people. Nigeria's Land Use Act, promulgated in 1978, was the most controversial legislation in the country. The Act, originally promulgated as a decree and annexed to the country's constitution, was ostensibly made to nationalize landholding in the country. However, the peculiar impact of the Act on the inhabitants of the Niger Delta region that hosts upstream activities of the oil industry has led to assertions that the Act was made specifically to deprive the region's inhabitants of the right to participate actively in the oil industry. The study draws information from primary and secondary sources. Using the historical and content analysis methods of analysis, this paper examines the impact of the Act on the right of inhabitants to access justice. It argues that the Act obstructed their rights to environmental justice and is a fundamental cause of the violent conflicts that pervade the region.

Keywords: Land Use Act, Resources, conflict Niger delta, Nigeria

Introduction

In a typical African setting, land is a free gift of nature that must be nurtured according to communal ethos and value system. This informed the collective ownership and equitable distribution of land through the family units, which guaranteed environmental justice to a very large extent in the pre-colonial era. But things changed for the worse during colonial era with the land grabbing and resource-sapping policies of the alien dictatorial powers. The military rule as a form of internal colonialism quickly adopted absolute authoritarian powers in environmental management, especially land control through enactments of decrees that were largely antithesis to environmental justice across Africa. The Land Use Act promulgated by the Nigeria's Obasanjo's military junta in 1978 was one of such environmental law extremities which robbed the Niger Delta people of their equal rights with the other regions. According to R.T. Ako, Nigeria's Land Use Act, promulgated in 1978, is perhaps the most controversial

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legislation in the country.[1] The Act, originally promulgated as a decree and later annexed to the country's constitution, was ostensibly made to nationalize landholding in the country.

Nigerian land policies, which have a long history, include the traditional land tenure system, statutory land law (Southern and Northern protectorates), and the Land and Native Rights Proclamation 1910. However, due to their shortcomings and inability to meet demand, the government promulgated another land policy instrument on March 29, 1978, known as the Land Use Act, which repealed the several pre-existing state land laws that controlled the country's land tenure structure. The Land Use Act was formed with the goal of unifying land policy across Nigeria and eliminating land speculation in order to defend the rights of all Nigerians to land. It is in the public interest of all Nigerians to be able to use and enjoy land in the country, as well as the natural fruits that grow on it, in sufficient quantities to feed themselves and their families.

Nigeria's Land Use Act, promulgated in 1978, as a decree and annexed to the country's constitution, was ostensibly made to nationalize landholding in the country. However, the peculiar impact of the Act on the inhabitants of the Niger Delta region that hosts upstream activities of the oil industry has led to assertions that the Act was made specifically to deprive those inhabitants of the right to participate actively in the oil industry. This study examines the impact of the Act on the right of inhabitants to access justice. It argues that the Act obstruct their rights to environmental justice and is a fundamental cause of the violent conflicts that pervade the region. The study primarily evaluates the peculiar impact of the Act on Niger Delta region.

The year 1978 is chosen as the originating chronology because it signaled the promulgation of the Land Use Act; while 1993 as the terminating chronology marks the opening of court case involving Ken Saro-Wiwa and N. G. Dube, and Kobari Nwilewas who were charged on 13 July 1993 with six counts charges relating to unlawful assembly, seditious intention and seditious publication.

Niger Delta Environmental Crisis

The Niger Delta of Nigeria is situated on the Gulf of Guinea and covers an area of over 70,000 square kilometers. The area is highly diverse with over 40 ethnic groups who speak more than 100 languages and dialects, and whose traditional livelihoods involve mainly farming and fishing. The region comprises 185 out of the 774 local government areas and covers nine out of the 36 states of Nigeria: Abia, AkwaIbom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo and Rivers. With over 30 million people, according to a 2006 population census, and an estimated population density of 265 people per square kilometer, the region accounts for more than 23 percent of Nigeria's population.[2]

The Niger Delta contains vast reserves of oil and gas, which play a significant role in the Nigerian economy. Despite these abundant natural resources, the

[1]Rhuks T Ako, "Nigeria's Land Use Act: An Anti-Thesis to Environmental Justice," *Journal of African Law,* Volume 53, No 2 (2009), pp. 289–304.

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region is marked by poverty, underdevelopment, environmental degradation, and insecurity. Historical tensions and a proliferation of armed groups (militant, criminal, and ethno-sectarian) contribute to the changing conflict and security dynamics in the region.

Historically, the Niger Delta region has been marked by violent agitation over political rights, resource control and environmental protection. The struggle for local control of oil resources and environmental remediation later evolved into armed insurgency. Between the 1980s and 1990s, many social justice movements and ethnic militias emerged to protest against the devastating impact of oil exploration and production. A notable group that emerged during that period was the Movement for the Survival of the Ogoni People (MOSOP) led by Ken Saro-Wiwa, an environmental rights activist.[2]

The killing of Ken Saro-Wiwa and eight other MOSOP leaders by the military government triggered a series of violent agitation and the emergence of several militant groups in the region. Later, several militant groups emerged, including the Niger Delta Peoples Volunteer Force (NDPVF) and the Movement for the Emancipation of the Niger Delta (MEND).[3] These militant groups took up arms against the government and engaged in the kidnapping of oil workers, vandalism of oil facilities and illegal oil bunkering.

Beginning in the late 1950s, multinational oil companies began taking over land belonging to Indigenous farming and fishing communities in the Niger Delta, resulting in environmental devastation. MOSOP spokesman Ken Saro-Wiwa called it an 'ecological war.'[4]Statistics from the Department of Petroleum Resources (DPR) indicated that between 1976 and 1993 a total of 4,835 incidents resulted in the spillage of at over 2.4 million barrels of oil (102.7 million U.S. gallons), of which an estimated 1.9 million barrels (79.7 million U.S. gallons; 77 percent) were lost to the environment. Nigeria's largest spill was an offshore well blowout in January 1980, when at least 200,000 barrels of oil (8.4 million U.S. gallons), according to oil industry sources, spewed into the Atlantic Ocean from a Texaco facility and destroyed 340 hectares (840 acres) of mangroves. Mangrove forest was particularly vulnerable to oil spills, because the soil soaks up the oil like a sponge and re-releases it every rainy season.[5] DPR estimated that more than 400,000 barrels (16.8 million U.S. gallons) were actually spilled in this incident.[6] Water contamination of local water supply resulted in fish kills and ruinous effects on farmland. Gas flares were potentially harmful to nearby communities, as they release poisonous chemicals. Gas flares were often close to communities and regularly lack fencing or protections for villagers who risk working near their heat. Many communities claimed that nearby flares cause acid rain which corrodes their homes and other structures, many of which have zinc-based roofing.

[2]UNEP, Environmental Assessment of Ogoniland, *United Nations Environment Programme (UNEP),* 2011. Available at:
https://postconflict.unep.ch/publications/OEA/UNEP_OEA.pdf
[3]*ibid*.
[4]*Trial Speech of Ken Saro-Wiwa* . November 10, 1995 – Wikisource.
[5]BronwenManby, "The Price of Oil" *Human Rights Watch.*(January 1999).
[6]*ibid*.

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Lands, streams and creeks were totally and continually polluted; the atmosphere was charged with hydrocarbons, carbon monoxide and carbon dioxide; many villages experienced the infernal quaking of the wrath of gas flares; acid rain, oil spillages and blowouts were common. In places like in Ogoni land, the result of such unchecked environmental pollution and degradation were that (i) The people could no longer farm successfully. Once the food basket of the eastern Niger Delta, the Ogoni now buy food (when they can afford it); (ii) Fish, once a common source of protein, was rare. Owing to the constant and continual pollution of our streams and creeks, fish could only be caught in deeper and offshore waters for which the Ogoni were not equipped. (iii) Wildlife was dead. (iv) The ecology was changing fast. The mangrove tree, the aerial roots of which normally provided a natural and welcomed habitat for many a sea food - crabs, periwinkles, mudskippers, cockles, mussels, shrimps and all - was now being gradually replaced by unknown and otherwise useless plants. (v) The health hazards generated by an atmosphere charged with hydrocarbon vapour, carbon monoxide and carbon dioxide were innumerable.

After series of violent conflict between the federal government and the people, in August 1990, the Ogoni elders signed the Ogoni Bill of Rights, demanding "political control of Ogoni affairs by Ogoni people, control and use of Ogoni economic resources for Ogoni development, adequate and direct representation as a right for Ogoni people in all Nigerian national institutions, and the right to protect the Ogoni environment and ecology from further degradation."[7] MOSOP presented the Bill of Rights to several parties: the Federal government of Nigeria; the United Nations Working Group on Indigenous on Indigenous Peoples in Geneva;[8] the UN sub-committee on Human Rights; the African Commission on Human and People's Rights and Greenpeace. The Ogoni case was also presented to the Unpresented Nations and Peoples Organization in 1993.[9]Ken Saro-Wiwa, N. G. Dube, and Kobari Nwilewas were arrested in Port Harcourt on June 21, 1993. The three were charged on 13 July 1993 with six counts relating to unlawful assembly, seditious intention and seditious publication. Bail was not set and all three remanded in custody until September 20.[10]The decline in the performance of the local refineries startedin the early 1990s after the military Government ordered NNPC to close its accounts in commercial banks and transfer them to the Central Bank. NNPC lost its autonomy.

The Origin of Land Use Act

The land ownership system before colonial rule offers a background to land use before the Act of 1978. The predominant land tenure system in the pre-colonial era was the customary land tenancy where land holdings were owned by villages, towns, communities and families. Land was deemed not owned by individuals but by communities and families in trust for all the family

[7]Andrew Rowell and Stephen Kretzmann, "All for Shell: The Ogoni Struggle – A Project Underground Report." *Nigeria Project, Yale Law School* (November 1, 1996).
[8]C. I. Obi, "Environmental Movements in sub-Saharan Africa" *UN Research Institute for Social Development* (2005).
[9]Eghosa E. Osaghae, The Ogoni Uprising: Oil Politics, Minority Agitation and the Future of the Nigerian State" *African Affairs*. Volume 94 No. 376 (1995), pp. 325–344.
[10]*ibid*.

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members.[11] The legal estate under customary land tenancy was vested in the family or community as a unit. During this period, land belonged to the community or a vast family of which many were dead, people who were living and countless members yet unborn. Thus individuals had no such interest as the fee in possession as the actual ownership of land or absolute interest was vested in the community itself. Interests or rights of individuals in community land were derivative interests. According to Dosumu and Aniyom, the customary land tenure in the areas comprising the Southern Nigeria before colonial rule was held in the following ways: (ii) Stool or Chieftaincy lands (iii) Family lands (iv) Individual or Separate property.[12]

The community lands comprised lands which the entire community has, an individual or proprietary interest. Such community lands were supervised and administered by the chiefs and traditional rulers. The stool or chieftaincy lands were found mostly among the Niger Delta comprised the chieftaincy and the surrounding lands. The family lands were lands that were vested in the members of the family as a corporate group. Individual property comprised lands whose title was vested on individuals and was obtained by partitioning of the family land to individual members of the family. However, during the pre-colonial period, land held under customary tenure cannot be sold or alienated. Such an act was generally regarded as capable of depriving the future generations of the opportunity to acquire land.[13]

The land ownership structure in Nigeria under colonial rule was designed to suit the motives of the British imperialists. Historians and scholars including Dike,[14] Ade–Ajayi,[15]Anene,[16]Oyebola and Oyelami,[17] and Onwubiko,[18] have argued that European conquest and occupation of West Africa and particularly British colonial rule in Nigeria were based on two main motives. These were initially economic interest and later governance. Oyebola and Oyelami[19] succinctly narrated that:

> The British occupation of Nigeria began on a very small scale. It first began along the coast and subsequently went from strength to strength until it had spread all over the

[11] E. O. Omuojine, The Land Use Act and the English Doctrine of Estate. *Journal of the Nigerian Institution of Estate Surveyors and Valuers.* Volume 22, No. 3 (1999), pp 54-56.
[12] O. A. Dosumu, Land Tenure System in Nigeria and its Effects on Land Administration. *The Map Maker.* Volume 4, No. 1 (1977), pp. 23-25; D. A. Aniyom, An Appraisal of the Land Use Decree and its Effects in its First Five Years (29th March, 1978 to29th March, 1983). *The Map Maker.* Volume 9, No. 1 (1983), pp. 17-26.
[13] M. C. Bardi, Geographic Information System as a Tool for Successful Implementation of the Land Use Decree. *The Quantity Surveyor.* Volume 29, No. 1 (1998), pp. 17-22.
[14] K. O. Dike, *Hundred Years of British Rule in Nigeria* (Lagos: Federal Ministry of Information 1960).
[15] J. F. Ade - Ajayi, *Milestones in Nigerian History* (Ibadan: Ibadan University Press, 1962).
[16] J.C. Anene, *Essays in African History* (Ibadan: Onibonoje Publishers, 1966).
[17] A. Oyebola, and A. Oyelami, *A Textbook of Government for West Africa* (Ibadan: Educational Research Institute, 1967).
[18] K. B.C. Onwubiko, *History of West Africa: 1800-Present Day (Book Two)* (Aba: Africana Educational Publishers Company, 1976).
[19] A. Oyebola and A. Oyelami, *A Textbook of Government for West Africa* (Ibadan: Educational Research Institute, 1967).

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> country. The occupation was progressive rather than sudden. Traders led the way and their motive was purely economic. They came neither to acquire territories nor to administer the country. But there is no doubt that while they were trading, they were spreading the influence of their country at the same time, thereby paving way for the subsequent occupation of the country with which they traded.[20]

As a major factor of production, land was inevitably required by the colonial authorities to achieve their economic, social, and political objectives. The British merchants who came to the area purely on economic motive required land to establish their merchandise. The National African Company and its successor, the Royal Niger Company required land to expand its business in Nigeria. The colonial administrators also required land for public purposes. Because land ownership in pre-colonial Nigeria was communal, the colonial authorities initiated laws and regulations governing land ownership, land use and development among others to enable them acquire and convey titles to land for the purposes of commerce and governance. Principal among these legislations were the Treaty of cession (1861), Land Proclamation Ordinance (1900), Land and Native Rights Act (1916), Niger Lands Transfer Act (1916), Public lands Acquisition Act (1917), Native lands Acquisition Act (1917), State Lands Act (1918) and Town and Country planning Act (1947).[21] The Treaty of Cession of 1861 became the principal of all the treaties signed by the colonialists with traditional chiefs in Nigeria. According to Elias, the legal effect of the cession of 1861 was that the root title of the land comprised in the Treaty was passed to the British crown.[22]

In 1900, the Land Proclamation Ordinance was enacted by Lord Lugard. The legislation disregarded the principles of native law and custom and provided that title to land can only be acquired through the High Commissioner. The Land Proclamation Ordinance was enacted to kill the institution of family and communal land ownership by facilitating the acquisition of title to land through the High Commissioner. Also in 1916, the Niger Lands Transfer Act was enacted. This law transferred the rights of the then Royal Niger Company in lands acquired by it and vested such rights in the British crown. The major legal effect of the Act was that lands held by the company based on treaties and agreements made with the people of Nigeria were transferred to the colonial government, thereby creating some landownership problems for the people. Suffice it to state that land matters were among the Niger Delta communities were brought before the Native Court Authorities, and not before the traditional judicial institutions amongst the people.

In 1917, the Public Lands Acquisition Act was enacted to empower the colonial Governor to acquire lands when required for public purposes. This law covered

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[20]*ibid*.
[21]NamnsoBasseyUdoekanem, David OdegwuAdoga, and Victor OnyemaOnwumere, Land Ownership in Nigeria: Historical Development, Current Issues and Future Expectations, *Journal of Environment and Earth Science,* Volume 4, No.21 (2014), pp. 182 -188
[22] T. O. Elias, *Nigerian Land Law* (London: Sweet and Maxwell, 1971).

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the then colony and protectorate of Nigeria. It empowered the colonial government to compulsorily acquire land whether occupied or unoccupied and provided for non-payment of compensation if unoccupied lands were acquired. Also in 1917, the Native Lands Acquisition Act was enacted to regulate the acquisition of land by aliens from the people of the southern provinces of Nigeria. It provided in section 3 as follows: - "(a) No alien shall acquire any interest or right in or over any lands within the protectorate from a native, except under an instrument which has received the approval in writing of the Governor, (b) Any instrument which has not received the approval of the Governor as required by this section shall be null and void." Also, section 3A provided as follows: "3A Where any interest or right in or over any land has been acquired by an alien from a native with the approval in writing of the Governor as provided for in Section3.

However, while these laws were enacted to make lands available for use by the colonial government, they were implemented to eliminate the pre-colonial land tenure system in the country and facilitate private ownership of land, particularly in the Niger Delta region. Thus with the advent of colonial rule, commerce and commercialization, it had became possible for individuals to own private land and deal with such land liberally[23] and subsequently, land began to be sold, leased or mortgaged to individuals or groups.[24] Consequently, any attempt to make claims to land was thereafter subject to deliberation at the Native Court. The above is an indication that post-colonial land acts had some structures which it inherited from the colonial land policies.

Conception of the 1978 Land Use Act

The Land Use Decree (later known as Land Use Act) was promulgated on 29th of March 1978 following the recommendations of a minority report of a panel appointed by the Federal Military Government of the time to advice on future land policy. With immediate effect, it vested all land in each state of the Federation in the governor of that state (Federal Republic of Nigeria, 1978). The Act vests all land comprised in the territory of each state (except land vested in the Federal Government for its agencies) solely in the hands of the military governors of the state who would hold such land in trust for the people. According to Rhuks, the Act was promulgated in 1978 to nationalize all lands in the country, purportedly due to the increasing difficulty experienced by private and government institutions in acquiring land for development.[25]

The Third National Development Plan had noted that the difficulties experienced in land acquisition for development purposes were partly responsible for the failure to implement the Second National Development Plan (1970 - 74). Though legislation existed to empower governments to acquire land compulsorily for public purposes, it was observed in the Third National Development Plan that the cost was exorbitant in some of Nigeria's urban centres. Consequently, the federal government set up the Anti-Inflation Task

[23] E. O. Omuojine, The Land Use Act and the English Doctrine of Estate…
[24] M. C. Bardi, Geographic Information System as a Tool for Successful Implementation…
[25]Rhuks T Ako, "Nigeria's Land Use Act: An Anti-Thesis to Environmental Justice," *Journal of African Law,* Volume 53, No 2 (2009), pp. 289–304.

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Force in 1975 to examine existing inflationary tendencies in the economy and identify their causes. The task force recommended that the government initiate a comprehensive national policy on land and promulgate a decree to vest all land in the state government. The federal government rejected the report and set up a rent panel in 1977 to investigate and make recommendations on the persistent difficulties in land acquisition for development purposes, as well as the incidence of high rents demanded by property developers.

The panel recommended that a land reform commission be established to study the various aspects of Nigerian land tenure systems and make recommendations to the federal government on the necessary steps to streamline them. At this time, the country was undergoing the preliminary stages of returning to democratic governance.

The constitution drafting committee that had already been inaugurated to draft and recommend a constitution for the country suggested that all undeveloped land in the country be nationalized. The federal military government inaugurated the Land Use Panel on 20 May 1977 to review Nigeria's land tenure system. The panel was mandated: (i) to undertake an in-depth study of the various land tenure, land use and conservation practices in the country and recommend steps to be taken to streamline them; (ii) to study and analyze the implications on a uniform land policy for the country, as well as examine the feasibility of a uniform land policy for the entire country and make necessary recommendations and propose guidelines for their implementation; and (iii) to examine steps necessary for controlling future land use and also opening and developing new lands for the needs of the Government and Nigeria's ever growing population in both urban and rural areas, and make appropriate recommendations.[26]

After it began to sit in 1978, the panel submitted both a majority report and a minority report to the federal military government. While the majority report advised explicitly against either the nationalization of land or the extension of the land tenure system of the northern states to the whole country, the minority report recommended that land be nationalized. It based its recommendation on the grounds that "the idea of Government being the custodian of land [as] in the Northern States is germane and should remain the acceptable base for land use."[27] The federal military government accepted the recommendation of the minority report and promulgated the Land Use Decree no 6 of 1978 which in effect extended the law of "public ownership" of land hitherto practised in northern Nigerian to the whole of the federation through its stipulated provisions.

Provisions, Operations and Objectives of the Act

The promulgation of this Act was as a result of two main factors: First, was the diversity of customary laws on land tenure and difficulty in applying the various customs of the different people. The second factor was the rampant practice in

[26]Federal Government of Nigeria, Act. 1977.
[27]Rhuks T Ako, "Nigeria's Land Use Act: An Anti-Thesis to Environmental Justice," *Journal of African Law,* Volume 53, No 2 (2009), pp. 289–304.

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southern Nigeria with regards to fraudulent sales of land. The same land would be sold to different persons at the same time giving rise to so many litigations. The Act distinguishes throughout between urban and non-urban (rural) land. In urban areas (to be so designated by the Governor of a state), land was to come under the control and management of the Governor. In rural areas it was to fall under the appropriate local government.

At the operational level, the Governor appointed Land Use and Allocation Committees for each state with the basic function of advising the government on the administration of land in urban areas. Land Allocation Advisory Committees were also appointed to exercise equivalent functions in the rural areas. The Act equally envisaged that "rights of occupancy," which were to replace all previous system or rules of inheritance to land and form the basis upon which land was to be held. These rights were of two kinds: statutory and customary. While Statutory rights of occupancy were to be granted by the Governor and related principally to urban areas; Customary right of occupancy, according to the Act, means the right of a person or community lawfully using or occupying land in accordance with customary law and includes a customary right of occupancy granted by Local Government under this Act.

Local governments were empowered to grant customary rights of occupancy to any person or organization for agricultural, residential and other purposes with the provison that grants of land for agricultural or grazing purposes should not exceed 500 or 5000 hectares respectively without the consent of the State Governor. With the minor exception of land subject to Federal or State claims, the Act also empowered the local government to enter upon, use and occupy for public purposes any land within the area of its jurisdiction and to revoke any customary right of occupancy on any such land. The approval of the local government was to be required for the holder of a customary right of occupancy to alienate that right.[28]

The Act prohibits the alienation by assignment, mortgage, transfer or possession, sub-lease or otherwise, of customary right of occupancy without the consent of either the Governor or the Local Government as the case may be. It also prohibits the alienation of statutory right of occupancy without the due consent of the Governor (Land Use Act, 1978: section 21 subsections a and b). Governors were empowered to revoke rights of occupancy for reasons of "overriding public interest." Such reasons included alienation by an occupier without requisite consent or approval; a breach of the conditions governing occupancy; or the requirement of the land by Federal, State, or local government for public purposes. Only in the last of these cases would any compensation be due to the holder, and then only for the value of unexhausted improvements on the land and not for the land itself. The four main purported objectives of the Act include: 1. to effect structural change in the system of land tenure; 2. to achieve fast economic and social transformation; 3. to negate economic inequality caused by the appropriation of rising land values by land speculators and land holders; and 4. to make land available easily and cheaply, to both the government and private individual developers.

[28]Rhuks T Ako, "Nigeria's Land Use Act: An Anti-Thesis to Environmental Justice," *Journal of African Law,* Volume 53, No 2 (2009), pp. 289–304.

The Act and Niger Delta Crisis

The impact of the Act which borders primarily on erosion of principles of environmental justice may be categorized in two broad areas. The first relates to the general or national effects of the Act, while the second consists of its peculiar effects on the regions, for which a typical example is the Niger Delta region.In order to articulate the peculiar environmental injustice of the Act across regions of the country, this paper will focus on the particular effect on the indigenes of the Niger Delta region. According to Ako, one consequence was the escalation of violent conflicts in the region.[29] There is also a negative impact on the economic planning by the oil companies and the global economy that relies extensively on the supply and pricing of oil. As Fekumor noted, because of the Act, "the people have become antagonistic …they have been deprived of their main stay, and yet the damage is not paid for. Because they are not adequately compensated, the slightest misunderstanding is conflict."[30] According to Ojo, the reasons for the pervasive violence include the "the decision of hitherto voiceless, subordinate and under-privileged minority groups to take up the gauntlet and challenge state structures and institutions controlled by majority groups who have been grossly unjust over time in the distribution of national resources."[31]

In summary, the Act legitimized the appropriation of land in the region. Section 28 provides that land may be appropriated for "overriding public interests" defined to include "the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith."[32] In essence, the inhabitants of the region may be dispossessed of their land whenever their land is required for oil exploration, making them tenants-at-will of the oil industry on land they have owned and inhabited for centuries. The Act thus complemented and completed the intent of previous legislation to grant the federal government exclusive ownership and control of oil resources.[33] Though Akaakar opines that the assumption of ownership reached its full scale with the promulgation of the Offshore Oil Revenue Decree in 1971,[34]Rhuk contended that it is the Act that really completed the federal government's ownership and control of the oil industry.[35]

The impact of the Offshore Oil Revenue Decree merely abrogated the rights of the regions (states) to the minerals in their continental shelves. It vested the

[29]Rhuks T Ako, "Nigeria's Land Use Act: An Anti-Thesis to Environmental Justice," *Journal of African Law,* Volume 53, No 2 (2009), pp. 289–304.
[30] Constitutional Rights Project (CRP) Land, Oil and Human Rights in Nigeria's Delta Region (1999, CRP) at 15–16
[31] J. Ojo, The Niger Delta: Managing Resources And Conflicts, *Development Policy Centre*, No. 49 (2002,) p. 8.
[32] Y. L. Fabiyi, Land Administration in Nigeria: Case Studies of the Implementation of the Land Use Decree (Act) in Ogun, Ondo and Oyo States of Nigeria, *Agric Admin,* No. 17 (1984.), pp. 21–31.
[33] Federal Republic of Nigeria, Constitution of the Federal Republic of Nigeria (1999).
[34]AyodeleAkaakar, Land tenure and agricultural development in Nupeland," *Niger. Geogr. Journal.* Volume 15, No. 1 (2006), pp 49–59.
[35]Rhuks T Ako, "Nigeria's Land Use Act: An Anti-Thesis to Environmental Justice," *Journal of African Law,* Volume 53, No 2 (2009), pp. 289–304.

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title to the territorial waters and continental shelf, as well as royalties, rents and other revenues derived from petroleum operations, in the federal government.[36] In practice, the decree did not preclude the oil communities from having enforceable rights to participate in the oil industry because they owned the land underneath which the oil was exploited. Before the promulgation of the Act, even though ownership of the oil was vested absolutely in the federal government, the communities owned the land beneath which the resource was situated. Therefore, they had to be consulted before oil operations began on that land. However, after the Act became effective, the region's inhabitants were stripped of this right and the federal government became vested with the sole right to determine where and when oil operations could be undertaken.[37]

In addition to depriving the host communities of certainty in landholding rights, the Act was instrumental in depriving these communities from owning land within the region. Land in the oil-rich region was appropriated for the benefit of oil companies, government officials and their cronies to the detriment of the original (traditional) landholders. The Act also eroded the authority of traditional rulers (elders) that is intrinsically linked to land as evidenced by customary land tenure practices, whereby the power to manage and control the use of land is vested in the community leader. A major consequence includes the inability of traditional authority to mediate effectively and resolve land-related disputes in the region. The role of traditional authority in the administration of justice in land-related matters is particularly important in the region where there are disputes between individuals, families and oil companies literally daily.

Conclusion

The Land Use Act was promulgated and remained in force between 1987 and 1993 because the indigenes of the oil-rich Niger Delta region that bear the brunt of its adverse effects were incapable of bringing forth a peaceful change to the status quo. Sections of the Act deprived inhabitants of the Niger Delta environmental justice with due consideration to the realities of the environmental circumstances prevalent in the region. The Land Use Act could not achieve its goal of land redistribution equality, equity and justice among the citizenry of this region, thereby subjugating the people. In the face of incessant violence in the region, Nigeria's environmental legal regime could not "give voice to the voiceless," thus allowing oil spill and gas flare to ravage the environment. Issues of environmental justice did not form the core of reforms in the oil industry which should have ensured positive/collaborative participation of host community in the oil industry. There was no review of the existing state's power and authority in favour of the oil-rich Niger Delta region and other disadvantaged people across regions in the country; hence, the Niger Delta region could not benefit from the oil industry. The role of other laws and the Land Use Act in depriving the inhabitants of the Niger Delta region of environmental justice was the major source of endemic deprivation of the people which stemmed the tide of conflicts in the region.

[36] *ibid*.
[37] *ibid*.

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