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A review of the Nigerian urban and regional planning law, cap. 138 LFN of 2004

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Review article

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Abstract

The 1992 Urban and Regional Planning Law, later catalogued as Chapter 38 of the Laws of the Federation of Nigeria (LFN) in 2004, is the latest in a series of legislations on physical planning in Nigeria. Contrived as a national legislation under a centralised administration, it was meant to be adopted by each of the 36 states of the country and the Federal Capital Territory, Abuja. However, 30 years on, full implementation of its provisions is yet to be effected. The objectives of this review article include an exploration of the content of the law and the status of its implementation across the 36 states in Nigeria from 1992 to 2022. The method used is qualitative, involving a review of secondary information from government documents, newspaper reports, and content analyses of provisions of the law in view of the realities of planning administration in the country. The article shows that only 11 states out of 36 have passed the law, demonstrating a general lacklustre attitude towards it. In addition, the required institutions of autonomous Local Planning Authorities and Development Control Departments, which the law prescribes as arrowheads in its implementation, are yet to be established, even in the states where the law has been legislated. The article discusses the provisions and relevance of the law and the wide gulf between its intent and the reality of urban growth in Nigeria. The article concludes by recognising the general lack of competence among the states in implementing the law and identified key issues including the need for future planning legislations to be more pragmatic by separating policy from detailed development control standards in their administration.

Keywords: Development control, implementation, legislation, Nigeria, physical planning, planning law, urban and regional planning law, urban and regional planning legislation

'N OORSIG VAN DIE NIGERIESE WET OP STEDELIKE EN STREEKSBEPLANNING, KAP. 138 LFN VAN 2004

Die Wet op Stedelike en Streekbeplanning van 1992, later gekatalogiseer as Hoofstuk 38 van die Wette van die Federasie van Nigerië (LFN) in 2004, is die jongste in 'n reeks wetgewing oor fisiese beplanning in Nigerië. Geskep as 'n nasionale wetgewing onder 'n gesentraliseerde administrasie, was dit bedoel om deur elk van die 36 state van die land en die Federale Hoofstadgebied, Abuja, aanvaar te word. Dertig jaar later moet die volledige implementering van sy bepalings egter nog in werking gestel word. Die oogmerke van hierdie oorsigartikel sluit in 'n verkenning van die inhoud van die wet en die status van die implementering daarvan oor die 36 state in Nigerië vanaf 1992 tot 2022. Die kwalitatiewe navorsingsmetode is gebruik, wat 'n hersiening van sekondêre inligting uit regeringsdokumente, koerantberigte en inhoudontledings van bepalings van die wet behels in die lig van die realiteite van beplanningsadministrasie in die land. Daar word aangedui dat slegs 11 state uit 36 die wet goedgekeur het, wat 'n algemene gebrekkige houding teenoor dit toon. Daarbenewens moet die vereiste instellings van outonome Plaaslike Beplanningsowerhede en Ontwikkelingsbeheerdepartemente wat die wet as pylpunte in die implementering daarvan voorskryf, nog ingestel word, selfs in die state waar die wet wel toegepas word. Die artikel bespreek die bepalings en relevansie van die wet en die wye gaping tussen die bedoeling daarvan en die realiteit van stedelike groei in Nigerië. Die artikel sluit af deur die algemene gebrek aan bevoegdheid onder die state in die implementering van die wet te erken. Sleutelkwessies word geïdentifiseer, insluitend die behoefte dat toekomstige beplanningswetgewing meer pragmaties moet wees deur beleid te skei van gedetailleerde ontwikkelingsbeheerstandaarde in hul administrasie.

Sleutelwoorde: Beplannings-wetgewing, fisiese beplanning, implementering, wetgewing, Nigerië, ontwikkelingsbeheer, stedelike en streeksbeplanningswetgewing

TLHAHLOBO EA MOLAO OA THERO EA LITOROPO LE LITEREKE OA NIGERIA, CAP. 138 LFN EA 2004

Molao oa Thero ea Litoropo le Litereke oa 1992, oo hamorao o ileng ea thathamisoa e le Khaolo ea 38 ea Melao ea Kopano ea Nigeria (LFN) ka 2004, ke oa morao-rao letotong la melao ea therelo ea mobu Nigeria. Molao ona o etselitsoe ho sebetsa naha ka bophara

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tlasa tsamaiso ea ‘muso o bohareng, ‘me o reretsoe ho amoheloa ke litereke tse 36 tsa naha le notes-moholo, Abuja. Leha ho le joalo, lilemo tse 30 molao o entsoe, tšebelisoe felletseng ea lipehelo tsa ona e ntse e so etsoe. Sepheo sa sengoliloeng sena se kenyelletsa ho hlahloba molao ona le boemo ba tšebeliso ea ona literekeng tse 36 ka bophara ba naha ea Nigeria ho tloha 1992 ho fihlela 2022. Mokhoa oa boleng oa ho fuputsa o sebelisitsoe ho etsa boithuto bona, o kenyelelitse tlhahlobo ea litokomane tsa ‘muso, litlaleho tsa likoranta le tlhahlobo ea lipehelo tsa molao ho shebiloe boleng ba tsamaiso ea therelo ea mobu ka hara naha. Ho bontšoa hore ke litereke tse 11 feela ho tse 36 tse fetisitseng molao, ‘me sena se bontša khaello ea thahasello ka kakaretso mabapi le ona. Ho feta moo, litsi tse hlokehang tsa Mafapha a Ikemetseng a Thero ea Libaka le Mafapha a Taolo ea Ntšetsopele eo molao o li hlalosang e le lihlomo ts’ebetsong ea ona, li sa ntse li tla thehoa ho kenyelelitse le litereke tseo molao ona o seng o amohetsoe. Sengoliloeng se boetse se lekola lipehelo tsa molao, bohlokoa ba ona le khaello e pharaletseng pakeng tsa sepheo sa oona le boleng ba kholo ea litoropo Nigeria. Sengoliloeng sena se phethela ka ho lemoha khaello ea bokhoni ka har’a litereke ka kakaretso ho phethahatsa molao le ho tsebahatsa lintlha tsa bohlokoa tse kenyeletsang tlhokahalo ea melao ea thero ea libaka ea kamoso e tla arola maano le taolo ea ntšetsopele tsamaisong.

1. INTRODUCTION

Perhaps nothing demonstrates the contradictions between intent and outcome in urban physical development planning in Nigeria as the discrepancy between planning policies, laws, and regulations, on the one hand, and the realities of urban growth, on the other. The contradictions extend to the laws and regulations themselves in terms of both internal contradictions and poor synergy between them, as is frequently the case in policy-making generally in the country (Iyanda & Bello, 2016: 64).

The general trend in the enactment of the Urban and Regional Planning Law by the state governments has been slow (Bertram & Victor, 2020). By 2022, only a few states progressed from the extant colonial town planning laws and enacted the 1992 law as prescribed and in observance of its provisions, as can be understood from available government documents in the states (*Prime Times*, 2021). The law itself, being essentially a scion of the earlier 1946 Town and Country Planning Law, enacted in the four former regions of the country, addresses physical development planning in urban areas and their promotion and regulation in accordance with modern planning ethos and standards. It includes the preparation of different types of physical development plans (National Physical Development Plans) at national state and local levels with an institutional framework to administer its implementation (Lamond *et al.*, 2015).

The law identified two key actors in the physical development regulatory process – the Local Planning Authority (LPA) and a Development Control Department (DCD) statutorily attached thereto, but operationally independent thereof. The LPA is, by definition and design, an autonomous and authoritative government agency that defines and executes physical planning in the urban areas. This is clear in both the 1946 and 1992 laws, whose main difference lies only in the incorporation of regional planning and national physical planning at state and federal levels, respectively. The DCD is designed to be the main executive agency for this purpose (NITP, 2010). Thirty years since the enactment of the law that established them in 1992, the LPA and its chief executive organ, the DCD, are yet to see the light of day in all the states as envisaged, with the exception of Abuja and Lagos. This development portends a dilemma in town planning practice with attendant consequences.

This article examines the ramifications of this glaring break between the provisions of the planning legislation in Nigeria with a focus on the 1992 Urban and Regional Planning Law and its implementation by the states, exploring the challenges that abound with particular reference to the establishment of the LPA and the DCD. It is common practice to link poor planning in Nigerian cities directly to ineffective development control (Kio-Lawson *et al*., 2016: 154; Aluko, 2011: 169), without much reflection on the broader legislative context.

While the focus on development control may be a valid approach, it seems more prudent to investigate the wider circumstances that have caused the poor performance. Key among these circumstances is the gulf between the provisions of the laws and their actual implementation. This article posits that this has been the main problem with physical planning, as none of the extant laws since the colonial period have witnessed any determined attempt at implementation. The Urban and Regional Law is the latest case in point.

2. METHODS AND REVIEW APPROACH

The review provides background on the Nigerian planning legislative framework, including previous laws and their associated legal and institutional environment. It discusses the obvious inconsistencies that befell the legislations, making them ineffective. First, the review summarises physical planning legislation in Nigeria from the colonial period to the present and notes the 1946 Town and Country Planning Law as the forerunner to the 1992 legislation. Secondly, the review introduces the provisions of the Urban and Regional Planning Law and appraises the adoption and implementation of the law in Nigerian states.

Qualitative research methods were employed for this study, primarily through the application of desktop research and secondary data analysis. Relevant materials used in this review consisted mainly of planning legislation documents availed from government repositories, including official government websites and documents covering events from the colonial period (1865-1960) at national and state levels. Nigerian newspaper reports obtained online supplemented these sources. Among these are national laws, including the Urban and Regional Planning Law (1992), the preceding Town

and Country Planning Law (1946), and various laws from some of the states where enacted. Other related government documents, including the National Urban Development Policy (Nigeria, 1997: 1) and relevant journal articles and books were included as sources. In the discussion section, issues, including the content of the law as legislation for urban and regional planning, were identified, and the challenges affecting its implementation were examined. The main search for information on the status of the legislation and implementation of the Urban and Regional Planning Law was conducted from June 2020 to November 2021, through the official websites of each of the 36 states of the country, in the first instance, conducted between May 2021 and November 2021. The official website search was supplemented by a general search conducted during the same period using the keywords planning law; legislation and development control, and Nigeria. Official government documents from some of the states and the Federal Government as well as newspaper reports were also accessed, where available.

3. BACKGROUND TO PLANNING LEGISLATION IN NIGERIA

3.1 Colonial period (1863-1960)

Legislation for modern physical planning in Nigeria began with the colonial period, with the principal aim of regulating buildings and land-use in general in the major settlements. This was mainly done to promote environmental hygiene and land-use planning. The first major legislation pertained to public health matters in the former Lagos Colony in 1863, named the Town Improvement Ordinance (NITP, 2010). It provided guidelines for environmental sanitation and urban renewal to improve living conditions in areas considered blighted. It also addressed a somewhat different subject, not so much in the realm of public health, but a social organisational cause of segregating the European colonial from the native population, by designating specific areas of the city for the different populations. This policy also became the hallmark of colonial town planning in other parts of the country. Although land tenure laws such as the Land and Native Rights Proclamation Law introduced in the Colony of Lagos and the Southern Protectorate in 1900 and in the Northern Protectorate in 1901 are linked to planning laws, they are statutorily and operationally different and not directly relevant to this article.

In 1904, the Cantonment Proclamation legislation was issued. It espoused similar environmental and residential segregation policies as those started in the Lagos Colony that extended to other major settlements across the country. This led to the establishment of European Residential Areas (later known as Government Residential Areas), which have become, to date, a prominent feature of most of the large cities in the country.

In 1917, The Township Ordinance was promulgated. The law provided for the classification of settlements across the country according to three classes of importance for the purpose of town planning that reflects their relative importance as administrative and commercial centres. Town plans were prepared; these incorporated land-use segregation and reinforced the 1904 Cantonment Proclamation.

With the 1917 ordinance in place, the 1928 Lagos Town Planning Ordinance was promulgated to address the specific incidence of a bubonic plague in Lagos. This was through urban renewal measures under the institution of the Lagos Executive Development Board, which may be described as the first PA in the country (Olujimi, 2011; Omole & Akinbamijo, 2012: 25). This was essentially similar to the earlier Town Improvement Ordinance of 1863, being a response, through urban renewal, to a public health emergency.

The colonial period bequeathed the Town and Country Planning Ordinance in 1946. The law itself was prepared as an adaptation of the British post-war 1946 Town and Country Planning Law that basically addressed post-war redevelopments of the cities, hinged largely on the needs for urban renewal through physical planning and public health. The concept of having a planning authority, planning schemes and development control, being central in the provisions of the law, were also reflected in the Nigerian adaptation.

3.2 Postcolonial period (1960- to date)

The 1946 Town and Country Planning Law was the forerunner to the Urban and Regional Planning Law that constitutes the focus of this article. The law was adopted in each of the then three regions of Nigeria as the Town and Country Planning Law domiciled in each of the respective regional laws of Northern, Eastern, and Western Nigeria. As in the case of Northern Nigeria, it was named Town and Country Planning Law and described as “a law to make provision for the re-planning, improvement and development of different parts of Northern Nigeria” (Northern Nigeria Government, 1963: 2099). The law has a strong hint of preoccupation with urban renewal, as indicated by most of its provisions and the process that strongly suggests its acclaimed purpose of “(securing) proper sanitary conditions, amenity and convenience; Preserve buildings and other objects of architectural, historical or artistic interest and places of natural interest or beauty; and Protect existing amenities whether in urban or rural portions of the area” (Northern Nigeria Government, 1963: 2106).

The law sought to achieve objectives in respect of public health and urban renewal, including the following, as indicated in Section 3 of the Law:

- Securing of proper sanitary conditions, amenity, and convenience.
- Preservation of buildings and other objects of architectural, historical, or artistic interest.
- Preservation of places of natural interest or beauty.
- Reservation of land for roads and the establishment of public rights of way.

- Regulation and control of the size, height, spacing, building lines, and other details of individual buildings.
- Limitation of the number of buildings or the number of buildings of a specified class that may be constructed or erected in any planning area.
- Reservation of sites for places of religious worship, schools, and public buildings and for places required for public services, open spaces, and burial grounds.
- Facilitation of the construction of works relating to lighting, water supply, sewage, drainage, and refuse disposal, or other public utility services.
- Establishment, extension, or improvement of transport systems.

Procedurally, the law provided for the establishment of Planning Areas – parts of cities for which a 'planning scheme' was prepared and a DCD responsible for ensuring that all developments take place in accordance with the approved planning scheme and are maintained that way until revised. It is also significant that, although substantially expanded, this law provided the model for the succeeding Urban and Regional Planning Law of 1992, the extant legislation for Urban and Regional Planning in the country.

The Urban and Regional Planning Law and the 1946 Town and Country Planning Law bequeathed a similar concept of town planning through a PA as policy institution and administrative organ and a DCD under it as the bulwark for undertaking the main functions of the institution (viewed essentially as 'Development Control' and 'Planning Schemes' as the tools whereby planning proposals are enacted (Northern Nigeria Government 1963; Nigeria, 1992). But the concept was somewhat refined under the Urban and Regional Planning Law, with the provision for involvement of the Federal Government as the main articulating institution for policy that is designed to filter through to the states and subsequently the local authorities in a clearly centralised operational framework. The main differences between the two laws are in terms of the broader perspective of the latter in including planning at national and regional levels, with parallel authorities responsible, and its more centralised institutional structure.

The two laws also address physical planning in the cities through physical development plans, conceived as 'planning schemes' in the former and a range of plans including national, regional, sub-regional, urban, and subject plans in the latter. This includes the planning and design aspects and the subsequent control of such developments through DCDs operating directly under the PAs.

Similarly, the 1992 Law attempts to be all encompassing by including regional and rural settlement planning under a centralised policy structure. The centralisation implicit in the law is reinforced by the provision for a national Urban and Regional Planning Commission (URPC) at the apex of policymaking at national level. In addition, there is a corresponding provision for an Appeals Tribunal at both state and national level for the purpose of taking appeals in response to actions taken by the PAs and the CDCs.

4. THE NIGERIAN URBAN AND REGIONAL PLANNING LAW

Enactment of the law can be viewed primarily as an attempt to reform the preceding Town and Country Planning Law of 1946, by aligning it closely with provisions of the Land Use Act of 1978, which centralised land administration through legislation with national coverage as against previous laws that addressed the respective regions separately. It can also be viewed as a response to demands from professionals in town planning through the umbrella of the Nigerian Institute of Town Planners (NITP). The law also reflected a regional component that was not addressed in previous legislations. It was initially promulgated under military rule as the Nigerian Urban and Regional Planning Decree No 88 of 1992 and subsequently passed as an Act of Parliament in 1999 under democratic rule and finally catalogued as Chapter 138 of the Laws of the Federation of Nigeria, 2004 (Okongwu & Imoisi, 2021: 107)

4.1 Provisions of the law

The law's six parts cover different aspects of physical planning and the procedures and institutions outlined to attain it, including plan preparation and administration (Part 1); development control (Part 2); additional control in special areas (Part 3); acquisition of land and compensation (Part 4); renewal, rehabilitation, and upgrading (Part 5), and appeals (Part 6). The law was designed to be the source of subsisting laws to be enacted in all of the 36 states of the country, with basic provisions for an institutional framework, types of plans and operational principles that mirror it directly. It states the main institutional framework for this as follows:

> "For the purposes of the initiation, preparation and implementation of the national physical development plans, the Federal, State and Local governments shall establish and maintain respectively - (a) a National Urban and Regional Planning Commission; (b) a State Urban and Regional Planning Board in each of the States of the Federation and the Federal Capital Territory, Abuja; and (c) a Local Planning Authority in each of the local government areas and the area councils of the Federation" (Nigeria, 1992: 1019).

The law conceived of physical planning in terms of three major themes to be performed by those institutions at national, regional, and local levels and sets these out in terms of six themes – plan preparation and administration, development control and preservation of listed buildings, and urban renewal and upgrading.

The administrative structure provides for a national URPC domiciled at the national level and four parallel institutions replicated at the national, state, and local levels and the Federal Capital City, Abuja. This includes the Urban and Regional Planning Boards in the 36 states, the Federal Capital Development Authority (FCDA) in Abuja, the LPAs, the DCDs, and the Appeals Tribunals. The URPC is the main

policy institution responsible for urban planning policies for the country, preparing national physical development plans, conducting research, as well as being the anchor for coordinating the activities of other institutions in the states.

States are to implement the provisions of the law at their level through additional legislative provisions via state, urban, and regional planning laws and establish Urban and Regional Planning Boards, LPAs and DCDs as provided. The content of the state laws across the states are, therefore, basically the same, with only a few differences in the inclusion or otherwise of appeal tribunals and financial matters. They generally revolve around provisions for a State, Urban, and Regional Board, LPAs and DCDs as the main tools for planning activities (Olujimi, 2011; Adamawa State Government, 2011; NITP, 2010; Katsina State Government, 2011; Lagos State Government, 1998, 2005; Kaduna State Government, 2018; Ogun, 2020).

The Urban and Regional Planning Board is the central institution at state level. The basic functions of the board include:

a. Formulation of state policies for urban and regional planning.
b. Initiation and preparation of regional, sub-regional, and urban master plans.
c. Development control on state lands.
d. Conduct of research in urban and regional planning.
e. Provision of technical assistance to local governments.

The LPAs, to be established in each of the Local Government Areas of the respective states (774 for all the states and 6 in the FCT) are to function as the main executive branch of the law, with specific jurisdictions and functions as follows:

a. Preparation of town, rural, local, and subject plans, which shall be forwarded to the Board for coordination.
b. Preparation of annual reports to be submitted to the Board on the implementation of the state physical development plan and the state regional plan.
c. Development control within its area of jurisdiction – through the DCD.

The establishment of the LPAs, as provided in the law, has essentially remained stagnant. There is a trend in this regard, as a similar fate befell the 1946 Town and Country Planning Law and its provision for LPAs. Overall, the LPAs were intended to be the institutional bases for undertaking physical development planning and its control. The DCDs are appendages at national, state, and local levels. Section 27(1-2) of the 1992 Urban and Regional Planning Law states in this regard as follows:

> "The (National URPC) Commission, the (state urban planning) Board and the (Local Planning) Authority shall respectively establish a department to be known as the Development Control Department ... (It) shall be a multidisciplinary department charged with the responsibility for matters relating to development control and implementation of physical development plans" (Nigeria, 1992: 1019).

Four items are detailed as the main functions of the DCDs:

a. Control over all physical developments (meaning buildings and land uses in towns and cities) on land Government estates put under it (Sections 27-28).
b. Issuance of development permit to any applicant who complies with the provisions of the law or any regulations (Sections 29-46).
c. Undertaking of "additional control" in case of the listing for preservation of buildings and other amenities deemed of special historical, cultural, or architectural interest (Sections 64-74).
d. Acquisition of land and compensation (Sections 71-78).

Three categories of DCDs were thus set out at national, state, and local government levels responsible for development control in their respective jurisdictions. In each instance, their functions are to control the use of land as provided in subsisting plans made by the respective organs. Thus, there is a DCD at the federal level in charge of federal lands; at the state level in charge of state land, and at the local government level, for all land within the local government areas subject to a PA. Many of the provisions of the law were subsequently expended on the details of the operational procedures for securing development control from the department, including legal and administrative measures, to the extent that the subject of development control becomes the dominant issue in the law.

The law also provides for the establishment of appeal tribunals. These are reflected at state and national levels to address matters of complaints and appeals arising from the decisions and actions of any of the institutions within the planning administration framework. The tribunals are to operate in a parallel fashion, responding to appeals from developers and the general public, reviewing cases, and issuing compensation where they are adjudged appropriate. The tribunal is, therefore, a judicial recourse to address conflicts that may arise as a result of actions taken by PAs or DCDs, including grievances arising from revocation of titles to land, evictions, demolition of property, refusal or delay in planning permit approval, and similar cases from both the PA and the DCD.

4.2 Status of adoption and implementation of the 1992 legislation

Reconnaissance of available information from published government reports and reference to them in other publications across the country reveal that only a few states have domiciled the law as given at the national level with varying levels of implementation of the two key components of passing a law – establishing PAs in the local government areas and corresponding DCDs. Apart from the FCT, the only other exemption is the case of Lagos State where the law was passed in 1998, establishing the Lagos State Urban and Regional Planning

Board and an accompanying by-law establishing Lagos State Physical Planning Permit Authority (LASPPPA), later known as the Lagos State Building Control Agency Regulations (equivalent to a DCD) (Lagos State Government,1998; 2005). Other states that passed the law include Abia in 1999 (Umezurike, 2015: 48; Rivers in 2003 (*The Tide*, 2010); Delta in 2003 (Omonigho, 2020); Ogun in 2005 (Ogun, 2020); Kwara in 2006 (*The Informant*, 2018; *Ilorininfo*, 2018); Nasarawa in 2009 (Nasarawa, 2009); Ekiti in 2011 (Ekiti, 2011); Adamawa in 2011 (Adamawa, 2011); Katsina in 2011 (Katsina, 2011) and Kaduna in 2018 (Kaduna, 2018: 3).

That is a total of 11 states out of the 36 states of the country, excluding the FCT which is directly under the Federal Government. In all these cases, however, the full establishment of PAs on the model of the law has not been accomplished. The NITP alluded to this as the current situation during a recent tour of town planning establishments across the country. A report by *Prime Times* newspaper suggests as much as it states in 2021:

> "The Nigerian Institute of Town Planners (NITP) has urged the federal and state governments to commence the implementation of national urban and regional planning law. The institute also charged government to be alive to its responsibility while professional town planners should make available acquired knowledge in both art and science for the government to develop into a workable blue print. NITP President, Olutoyin Ayinde, who made the plea in Abuja, while saying that the framework at the federal level hasn't been implemented, he stressed that it will require every state to domesticate the legislation towards enhancing physical planning in the country."

All the Nigerian states have operational Urban and Regional Planning Boards. However, these boards exist on the basis of two different models. They include those established under pre-existing laws, usually edicts made under military rule outside the then defunct Town and Country Planning Laws of 1946 as adopted by the extant regional governments, and those established under the 1992 Urban and Regional Planning Law as adopted by the states indicated earlier. None of the states, irrespective of having passed the law or otherwise, proceeded with the establishment of the key institutions of autonomous PAs and DCDs as prescribed in the law, with the exception of the FCT and Lagos State.

Lagos also established an Urban Planning Board in 1998 in response to the 1992 national law and followed up with an equivalent of a DCD in 2005 performing the same function of issuing planning permits to developers as the former urban and regional planning board. Thus, the DCD in Lagos underwent several mutations since its inception, as described by the government:

> "Lagos State Physical Planning Permit Authority (LASPPPA) otherwise known as Planning Permit Authority started from Development Control Department (DCD) under the Ministry of Physical Planning. This department performed the main functions of Lagos State Urban and Regional Planning Board, which was established on 28thApril, 1998 by virtue of Lagos State Edict No. 2 of 1998 in line with the Nigerian Urban and Regional Planning Law (Decree) No. 88 of 1992. The Board started operation as Lagos State Urban and Regional Board (LASURB) on April 28, 1998" (Lagos State, 2015a).

In the FCT, the law took effect in 1992 and has since operated through the planning administrative structure under the Abuja Municipal Management Council (AMMC) which acts as PA and has a corresponding DCD under it. An Urban and Regional Planning Tribunal was also established in the FCT and came into effect in 2008. This is basically as per the provisions of the 1992 law.

It is notable, however, that the Federal Government is yet to establish the URPC – the key organ at national level for policy and coordination, as indicated in the law. The NITP has called for the establishment of this body and of LPAs by the states. The Federal Government is reported to have only recently established a committee to study the provisions of the law and modalities to constitute the URPC (Uwaegbulam, 2017). Table 1 summarises the situation across the country as at 2022.

Table 1: Status of the adoption and implementation of the Nigerian 1992 Urban and Regional Planning Law

Entity	Law passed	Boards established	LPAs	DCDs	URP tribunal
Federal Government	1992	Urban and Regional Commission yet to be established	Not applicable	Not yet established	Tribunal established
Federal Capital Territory, Abuja	Federal Capital, Abuja (1992)	AMMC established as planning and administrative institution under the FCDA	AMMC operates as LPA	DCD established under the AMMC	Tribunal established
States	Lagos (1998) Abia (1999) Delta (2003) Rivers (2003) Ogun (2005) Kwara (2006) Nasarawa (2009) Ekiti (2011) Adamawa (2011) Katsina (2011) Kaduna (2018)	All states have established URP Boards or authorities either under pre-existing laws or under the 1992 URP law	In all states, Planning Boards function as PAs with Zonal Offices in select Local Governments	Development Control units function under the Boards in all states	Yet to be established in all states

Entity	Law passed	Boards established	LPAs	DCDs	URP tribunal
Summary	• Only 11 states have passed the law • Planning Boards or Authorities established in all states under supervision of different ministries including Public Works, Land and Housing, Environment or Physical Planning • In Abuja, the AMMC functions as the Board and Planning Authority with an autonomous Development Control Department • State Urban Planning Boards, where 1992 law is yet to be passed, operate under subsisting laws pending the passage • Autonomous LPAs, as defined in the 1992 law, operate only in Lagos and Abuja. Zonal offices of Boards in some states function as Planning Authorities under Boards as Semi-autonomous LPAs • No state has established a URP tribunal except at Federal level in Abuja				

Source: Author's compilation, 2021

5. DISCUSSION

The non-adoption of the law and the subsequent non-establishment of autonomous LPAs, DCDs and Appeals Tribunals of the type prescribed in the law across most of the states after 30 years raises questions about the importance of the law, the challenges affecting its implementation, and the capacity or perhaps willingness of states to implement its provisions to the letter. This is evident as urban planning practice has remained basically as it was prior to the law in most of the states – on the basis of extant laws including abridgements of the 1946 Town and Country Planning Law under different mechanisms. The following issues are pertinent.

5.1 Centralisation of authority

Perhaps the most obvious challenge facing the implementation of the law is the centralisation of authority in the design of its content and the establishment of administrative institutions to carry out its functions. By its content, the law rests on the principle of autonomy of LPAs, which would require a strong level of devolution of political power towards the Local Governments. Most of the states are hesitant to allow for such, as local governments are strongly dependent on state and federal government for their financing. The lack of fiscal autonomy, which can be traced mainly to constitutional arrangements, has made decision-making highly centralised and local governments incapacitated in supporting and enabling the types of PAs envisaged under the 1992 law. Being aware of this limitation and desirous of controlling the local governments, state governments are hesitant to implement the law as prescribed.

Thus, in their present form, the LPAs are directly under state governments, amounting to concentration of the powers for physical planning at state level contrary to the provisions of the law. This is exacerbated by the absence of autonomous city governments that would have been the *de facto* local governments most suited for this function. This explains why, in most of the states that passed the law, the action was not followed through with the establishment of PAs and DCDs. Abuja is the only clear case representing a variance to the general situation.

The non-establishment of duly constituted and operational PAs and DCDs in virtually all of the states is also attributed to the dearth of resources, especially staffing capacity at the local level (Wapwera & Egbu, 2013; UNHabitat, 2019: 63-68). States are hesitant to adopt the law, likely due to the demands such action would entail in having to establish PAs in each local government area and other matters and financing required to establish and maintain the apparatus. This seems to be a reasonable position, although it also appears questionable, given the apparent lethargy with which the issue is taking so long after the law. Hence, it would seem to be a dearth of political will to do so, as adduced by some (Omonigho, 2020).

5.2 Provisions of the law

There are issues with the content of the law as legislation for urban and regional planning.

5.2.1 Autocratic focus on development control and silence on the other components of urban and regional planning

Like the Town and Country Law of 1946, physical planning is primarily assigned to the PAs and the DCDs. It undertakes urban planning functions conceived primarily in the realm of physical development. The concept has not changed much, although in name the concept of 'planning' has evolved to acquire a taxonomy describing it as urban and regional rather than town planning, apparently indicating a concern for regional planning and development. But it is remarkable that this has remained largely at the level of nomenclature, as there is only a slight reference to the subject

of regional planning apart from its citation under the functions of the state urban planning board through the preparation of state physical development plans. However, there are no operational procedures or stated objectives elicited, as noted in the case of development control. There is no particular implementation unit such as the DCD under the board for implementing the said state physical development plans.

As the central organ for planning operations, the DCD addresses physical planning matters dealing with buildings and, to some extent, land use at micro level, as they concern the relationship between land in the urban area, the developer, and the enforcer of development control. Neither is it clear from the law what the reference to 'regional and sub-regional plans for the state' is. This appears to be the closest reference to regional development planning but there is no mention of operational procedures or implementation agencies, as in the case of urban physical development planning with an implementation agency – the DCD. There is thus a glaring ambiguity as to what constitutes this type of planning, who should do it, and how.

The twin objectives of guiding development at the local urban level and at the regional level with a diversification of concerns that are more complex, involving a wider field of participation in urban management and regional economic development have evolved more strongly in recent times. This has made urban and regional planning to mature into a multi-faceted profession with concerns well beyond physical development planning centred on planning schemes. Therefore, the law, as presently constituted, will not be able to capture these concerns.

The focus on physical developments and their control and the consequent silence over the management aspect of urban areas and planning is perhaps the main reason for the apparent discomfiture between the management and administration of cities and physical development planning that the laws address. Thus, issues dealing with delineation of urban administrative boundaries, directly within the sphere of physical planning, have found no reference in the law. The result of this has been the present lack of defined urban areas with autonomous administrations, as is witnessed in the country at present.

5.2.2 Three parallel development control functions pose potential conflict of authority

Although the law delineated different spheres for the three hierarchies of planning institutions (national, state, and local) to operate, it has nonetheless provided for parallel functions in development control that are bound to cause conflicts among the institutions. The preparation of national physical development plans by the URPC, of state physical development plans by the states and local governments, and of subject plans by LPAs is clearly set out and should ostensibly cause hardly any conflict of authority. However, instituting development control at each level would necessarily create overlapping controls, since all physical developments are invariably situated at a locale and related directly to every other development in the area.

Local jurisprudence should, therefore, ideally be applicable as far as development control is concerned, even if the planning is done by a supra local entity. This issue should have been foreseen. This issue has been famously brought to the attention of planners and lawyers in the celebrated case between Lagos State and the Federal government in a landmark legal case involving development control jurisprudence on land within the territory of Lagos State, which was decided in favour of the state in 2003. Instances of these potential conflicts have not yet arisen in other places on a serious scale, apparently because the LPAs or powerful physical planning boards as is featured in Lagos have not been established yet and where they have, they do not enjoy the autonomy enshrined in the law.

5.2.3 Range of plans assigned to national, state, and local governments contradictory

The opening section of the law listed different types of physical development plans to be undertaken by the relevant institutions at national, state, and local levels. The list, inclusive of a plethora of 15 purportedly different types of plans spread across the three-tier governance hierarchy, is basically repetitive, except for the local level where local, subject, and rural plans were substituted for regional, sub-regional, and urban plans. The range includes the following:

1. National level: National Physical Development Plan; Regional Plan; Sub-Regional Plan; Urban Plan, and Subject Plan.
2. State level: Regional Plan; Sub-Regional Plan; Urban Plan; Local Plan, and Subject Plan.
3. Local level: Town Plan; Rural Plan; Local Plan, and Subject Plan.

This necessarily allows room for ambiguity, given the similarities in the objectives and targets of each of the enlisted plans and the operational autonomy required in the functions of each of the institutions involved in preparing, implementing, and controlling these plans. It becomes obvious that the arrangement not only prescribes duplication of effort but also introduces confusion and contradiction in the system. This is more so in view of the institutionalisation of parallel DCDs in all the levels, as shown earlier.

5.2.4 Contradictions on the powers of the board *vis-à-vis* the local planning authority and the local government

There is an apparent contradiction in the powers and roles of the different institutions involved in the planning and development control process. Thus, some functions of the DCD are apparently mixed with those of the LPA, as for example in the mixing of sections 88-93 under Part 7 dealing with the functions of the DCD with provisions for the functions of the PA in Section 21. The provisions under this section appear

more relevant in Section 21, where the subject was on the functions and *modus operandi* of the LPA.

Related to this is the operational dichotomy between planning and development control. The dichotomy is behind the establishment of the DCD as a separate entity from the LPA itself, while there is no clear indication of subordination of one to the other. In fact, the set-up is bound to cause confusion and possible duplication of efforts. It appears that this lack of clarity is responsible for the unclear specifications of the functions of the Regional Planning Department. Tucked as an item under Section IV, this body does not seem to be appropriately accommodated, considering the clearly defined role of the State Government in this particular function.

5.2.5 The disconnect with local governments and other organs, laws, and regulations of the state government

A salient, emerging issue is the apparent disconnect between the board and its organs and key institutions in the public sector, notably the local government administration. Most remarkable is perhaps the fact that the establishment of the key institutions of PAs and the DCDs, as provided under the law, does not connect with the schedule of the Local Governments in line with constitutional provisions (Nigeria, 2011: 205-206). A reference to these legislations and conscious effort to clearly link up with their provisions would be crucial, as these are subsisting laws that pre-date the law.

Other public institutions with functions that relate to, or even replicate physical and regional development planning, with their own laws and institutions, have also emerged with a similar disconnect between their functions and operations and those of the institutions established under the law. The institutional arrangement, as presently constituted, is thus fraught with potential conflicts that will not augur well for the objectives. Directly relevant laws and policies that need to be synchronised with the new law include the Town and Country Planning Law of 1946, Local Government Edict of 1976, Land-Use Act of 1978, Urban Development Policy of 1997, Federal Environmental Protection Law of 1988, Environmental Impact Assessment Act of 1992, and the National Environmental Standards and Regulation Enforcement Act of 2007. Similarly, the corresponding institutions emanating from those laws would likewise need to be reflected.

There is also a plethora of development control guidelines enacted by some of the Urban Planning Boards and DCDs as well as environmental safety standards by the various institutions dealing with environmental protection. Synchronising these laws and institutions, which has presently not been done, will be an essential step in harmonising them toward the common objective of a healthy and efficient urban environment.

5.2.6 Issues on the overall status of the law in the practice of urban and regional planning

The thematic focus and procedures, as embodied in the chief concerns of the laws and the principal tools of the LPA and the DCD as the bulwark for implementing the 'improvement and development' of different settlements in the country, have remained essentially the same over the years since the 1946 law, despite the increasing concerns in urban development. The field has witnessed a transition from a focus on physical development to more subtle issues on urban development, including issues on the urban economy, environmental protection, security, urban services provisioning and management, all of which are now a joint concern involving different spheres across different fields.

The challenges of urban planning are so diverse and well beyond the limits of physical developments important as this component is. This question applies across all the states of the country. We have noted the inherent lapses which the law itself has inherited from earlier planning legislations and the resultant constraining effects under the present circumstances.

Considering the fate of previous legislations in urban planning, which have not been implemented as stipulated throughout their tenure since the colonial period, it is apparent that the Urban and Regional Planning Law is likewise experiencing a similar fate. It has taken 30 years since its debut in 1992. Meanwhile, circumstances in terms of the approach to planning itself have changed. Urban and regional planning now places less emphasis on the control of physical development to wider concerns on urban development and services provisioning as well as regional development planning. The methods and operational procedures of planning practice are also changing, assimilating more flexibility as well as more accommodation and participation.

With the realisation that the non-physical dimensions of urban development have a commanding role in urban development, urban planning concerns subsequently became more complex – beyond physical development planning to different aspects of economic and social development. The profession itself has assumed a different name – urban and regional planning – rather than the more restrictive town or city planning.

6. CONCLUSION

It can be surmised that, for want of effective implementation and other pertinent reasons, the Nigerian Urban and Regional Planning Law is yet to be an effective legislation for urban planning in most of the states of Nigeria and at national level despite its official passage. Implementation of the law has essentially faced the same debacles as its predecessor, the 1946 Town and Country Planning Law. Over the course of the different planning legislations in Nigeria, the emerging picture is one of incongruity between legal provisions, as enshrined in the laws, and the capacity to implement them. This is apparent particularly

during the postcolonial period, as illustrated in the case of the 1992 law.

The absence of key institutions provided for in the law in most of the states has invariably left the field to a somewhat compromised institutional framework, in which there are different models of planning administrative set-ups in different states. It would appear that both the 1946 Town and Country Planning Law and the 1992 Urban and Regional Planning Law have been overambitious in their conception and are far removed from the complex realities of physical planning itself and the wider scope of urban and regional planning. This is similar to what is reported of other policies in Nigeria (Iyanda & Bello, 2016: 64). Thirty years is an adequate period to re-examine these issues and streamline planning legislation to a scope and procedure that is effective and within the capacity of available resources.

The law does not appear to be appropriate for meeting the challenges of urban planning and development in contemporary Nigeria as these discussions suggest. This is also the verdict from the Nigerian urban development policy pronouncements following the enactment of the law. The urban development policy statements suggest that the institutional framework provided is 'unsatisfactory' in meeting the needs or physical planning in the cities effectively (Nigeria, 1997:12). A plethora of issues including those pointed out in this discourse were cited as challenges that a revised law needs to address. Coming from a government document, this would certainly carry considerable weight in assessing the law.

Similar opinions have been expressed on the apparent incapacitation of the PAs in respect of manpower and finance (Arimah & Adeagbo, 2000: 280; Wapwera & Egbu, 2013: 30; Omonigho, 2020), all pointing to the challenges facing the legislation. These challenges also extend to the effectiveness of development control guidelines which, in most cases, are observed in the breach, making the entire legislative framework consisting of the laws and the building space use standards, as detailed in by-laws, largely ineffective in Nigerian cities, especially in the peripheral areas (UNHabitat, 2019: 63-68).

In view of these developments, it can be appreciated that the main problem with planning laws in Nigeria is that they tend to place planning in a box, at a time when there is a need for diversification of interests, means and methods and a myriad of institutions and interest groups to relate to. Still, other questions arise. If laws of the type in question are not so pragmatic in both content and approach, what would be the appropriate approach to planning legislation, given the fact that it is necessary? Physical planning needs to be regulated in some legalistic superstructure that guides its practice and the essence of planning legislation. It must be realised, however, that there are two main spheres of these legislations. At the higher level, legislations should set out to define subjects and institutions. At a lower level, which is more critical, detailed guidelines and standards related mainly to development control may be addressed.

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