

Boundary issues and inadequate government policies in conflict Resolution in akwa ibom state, Nigeria

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Abstract

Issues associated with boundaries abound nationally and internationally. It engulf almost all facet of life especially, property ownership. Boundaries are line that delineates surface area for the purpose of facilitating coordination and deconfliction of operations between adjacent units, formations or areas. These bounds are often than not dispute prone. Ownership claim seems to be the major cause of the conflict; and land mostly the object. Border conflicts however intensify due to inadequate government policies to curb incessant boundaries issues. The Nigerian Land Use Act of 1978 and the constitution of National Boundary Commission with its subsidiaries are still wanting in promoting peaceful coexistence especially, among those along border line. This research aims to draw government attention to gaps which need to be bridged in its policies concerning border issues. Descriptive data analysis was employ in this research.

Keywords: Boundaries , Government Policies, Boundary Conflict , Conflict Resolution , Akwa Ibom State.

Introduction

Boundary lines (also commonly called property lines) define the extent of the legal limits of ownership of any parcel of land. At common law, the rule of “marks (monuments) before measurements” prevail in the definition of a boundary. There is also a presumption at common law that where land is described as being bounded by a road, ownership extends to the middle of the road (the *ad medium filum viae rule*), unless there is a clearly defined intent to the contrary. If the description of a boundary is ambiguous or otherwise uncertain or is in conflict with the occupations, courts may settle the position of the disputed boundary. Courts have established precedents granting priorities of weight where any two or more of the following boundary features present conflicting evidence in the determination of a true boundary position.

These are in order of priority [1]: Natural boundaries (eg rivers, cliffs) monumented lines (boundaries marked by survey or other defining marks, natural or artificial) Old occupations, long undisputed Abuttals (a described “bound” of the property eg a natural or artificial feature such as a street or road). Statements of length, bearing or direction (“metes” or measurements in a described direction). This ranking order is not rigidly adhered to; special circumstances may lead a court at times to give greater weight than normal to a feature of lower rank (p.13).

Subject to any evidence to the contrary, courts have consistently ruled in favour of long, acquiescent and undisturbed occupation dating to the time of survey as the most convincing evidence of a boundary between properties. Further, it is a fact of law that where a property is described by “metes and bounds” ie both measure-

ments and a feature which describes the extent of ownership, the described bounds (abuttals) take priority over the stated measurements [2]. Strata title boundaries are specifically defined by the strata title plan and, commonly, are the centre of the walls, floor and ceilings enclosing a lot. The actual location of any boundary is subject to the evidence of an on-ground assessment of the facts pertaining to the matter, and is best undertaken by a Registered (or Licenced) Surveyor.

Kinds of Boundaries

Boundaries can be classified at many levels. They may be international (as between countries); national (as between states of a country); regional (as between regions of a state); local (as between localities of a region or local government) or, individual boundaries separating the land parcels of subdivided land. Boundaries between countries and states are more commonly referred to as borders, and may be either natural (eg seas, rivers or lakes) or artificial (eg defined by geographic lines of latitude and longitude). Borders serve political, legal and economic purposes in the separation of the jurisdictions of the abutting countries. Other kinds of boundaries include maritime boundaries which define the exclusive rights of a country or state over the resources of oceans adjoining the land of the country [1]. Maritime boundaries may also exist for specific purposes such as marine parks and fishing zones, and “administrative boundaries” which are based on cadastral maps and used for political and governmental administrative purposes – for example electoral boundary divisions, or for censuses taken periodically for planning and future development of a country at a national or regional level.

The Nature of Boundaries

Generally, boundaries of land are fixed and do not move, although the interpretation of the location of the boundary can be difficult and professional judgements may vary in the interpretation of the evidence of the location. The situation with regard to “natural” boundaries formed by seas, lakes, rivers etc is more complex in that such boundaries are said to be ambulatory. Ambulatory boundaries cannot be marked on the ground and are not fixed in one place but can change position over time through slow and imperceptible accretion or erosion of the described feature. Different rules of interpretation of the definition of natural boundaries apply, depending upon whether the boundary adjoins tidal or non-tidal waters, the existence or otherwise of Crown reserves, the determination of high or low water mark, or the water’s edge, the definition of a river bank and, perhaps more importantly, whether or not changes in the situation were slow and imperceptible over time, or sudden as in the change of course of a river caused by flooding or deviation. In future years, there will no doubt be of great interest in the impact of climate change on sea level, and the subsequent effect on boundaries bordering those waters. It should also be noted that there is a presumption at common law that where land is described as being bounded by a non-tidal river or stream, ownership extends to the middle line of the water (the *ad medium filum aquae rule*), unless there is a clearly defined intent to the contrary [3].

Boundaries and Conflicts

Boundary conflicts at the grass roots, especially between communities over land, water, oil wells or other important natural resources, have continued to be on the increase in Nigeria. It has become one of the recurring and annual phenomena that are both historical and contemporary. In Akwa Ibom State of Nigeria for example, boundary conflicts are “common either within or at the borders of the state and they include Okobo and Ndon Ebom, Ikot Ayan Itam (Itu) and Ikot Udo Uruan, Edebom II and Ikot Ekpene Udo (all in Nsit Ibom; Onna Supreme National Assembly of Onna Local Government Area and their neighbours of Eket, Ibeno, Mkpato Enin and Eastern Obolo and Ibiono Ibom Local Government Area at Ekpemiong. In Cross River State, Nko and Oyeadama, Apiapum and Ofatura, Yala and Yache, Mbube and Boki, Bekwarra and Ishibori, Ugep and Adim, Idomi and Abini” to mention a few [4]. The rampant recent occurrences of boundary conflicts have not only called for the attention of the Akwa Ibom State and the Nigerian government but also a clarion call for the establishment of an informed and active boundary conflict management agency both at the federal and state levels. This is because the score card has always shown that boundary conflict at any level always results into a wanton destruction and loss of lives and property. It induces fear, insecurity, distrust and economic dislocation. It also results in creating large streams of Internally Displaced Persons (IDPs) [5]. It has been observed that, Apart from being a serious threat to peace, security, governance and development in the country, particularly in the affected areas, it has been a draining pipe in the finances of the government especially in Akwa Ibom and Cross River State because huge sums of money have always been expended to fund the constituted panels of inquiry, set up refugee camp or rehabilitation centers, to feed the displaced victims of the warring communities and to provide necessities of life such as clothing, medicines, mattresses, blankets, building materials and many others [4].

In Essien Udim and Obingwa Local Government Areas of Akwa

Ibom and Abia States where Odoro Ikot and Ngwa communities are located, boundary conflict occurs whenever there is an attempt by a community “to either increase, monopolise or consolidate its control on other communities over the scarce farmland resources” [6]. This is due to the fact that, the people are basically farmers and agriculture is their main livelihood apart from subsistence hunting and fishing. So they depend heavily on their lands for survival (Etiowo 1985: Viii)[7]. Besides, growing population and absence of industries, companies and NGOs enhance the chances of boundary conflicts. Local people depend largely on land due to its fertility as stated by that, “the country is increasingly and densely forested as their land is fertile and grows good yams” [7]. Every individual, household or community occupies an identifiable farm land, as stated also by [8, 9] that, “every community is prone to identify its survival with a physical territory” and “since the issue of survival amongst the people is closely tied to land ownership, the subject of where the boundary lies between communities becomes very important” [9]. It also explains why scholars like Lord Curzon as early as 1902, could state that “boundaries are the razor edge on which hang suspended the modern issues of war and peace, of life and death to individuals, families, states and countries” [9, 10]. However, boundary conflict exists at two levels namely the state-centric or the international boundary conflict defined or referred to as conflict occurring between two or more independent sovereign states. For instance, conflict between Nigeria and Cameroon over Bakassi Peninsula. The second level of boundary conflict is the grassroot or internal boundary conflict which refers to conflict that occurs between the administrative units of the state or between local communities.

A boundary is a line that delineates surface area for the purpose of facilitating coordination and deconfliction of operations between adjacent units, formations, or areas [11]. In other words, a boundary is a line, point or plane that indicates or fixes a limit or extent. In the simplest sense, a boundary is a property line. It denotes the beginning and the end of something. In the physical world, boundaries are often easy to see – fences, walls, signs, hedges or sometimes only a slightly different appearance of the lawn. All these signs indicate the borderline of someone’s property. Within these boundaries, the owner is fully responsible for the property, while others are not. In every culture, there exists the human desire to maintain some minimum personal space. This is similar to the territoriality that animals demonstrate. Almost all humans care deeply about private ownership. There is need to feel that something belongs to us and is ours alone. Personal space is the physical region all around us whose intrusion we guard against. To be comfortable, individual/community requires a certain amount of physical space with a terminal point [2].

The internal boundary conflict mostly assumes the nature of a dispute between two or more communities fighting over portions of ancestral land as in the case of Boje and Nsadop, Njua and Bano-Bawop in Cross River State, Aguleri and Umuleri in Anambra State, Ofa and Erile in Kwara State, Oma and Awe in Plateau State, Eket and Ibeno, Okobo and Ndon Ebom, Mbiakong and Ifiyong Usuk in Akwa Ibom State to mention but a few in [9, 12]. It also occurs between two communities astride inter-state boundaries such as the case of Ogori in Kogi State and Ekpedo in Edo State, Iwukem in Akwa Ibom State and Azumini- Ndoki in Abia State or between two or more states of the federation generally over forest

reserves, such as the disputes between Edo and Niger Delta over the Urhoniobe forest reserve or oil wells as illustrated by the rival claims of Akwa Ibom and Cross River States over the oil rich Tom Shott Island, as stated in the Daily Times, 4 July 2003; Nigerian Tribune, 9 September 2004, the Punch, 24 February 2004 in [9]. This situation in many of our states of the Nigerian federation today is similar to the experience of Cross River State which has also been engrossed in intra and interstate boundary crises with the neighbouring states of Akwa Ibom, Abia, Ebonyi and Benue (p.20). The situation in many states in Nigeria is similar to the experience of Akwa Ibom State which has also been engrossed in intra and inter-state boundary crises with the neighbouring states of Abia and Cross River. These boundary conflicts include disputes between Oku Iboku in Itu Local Government Area and Ikot Offiong/Mbiabo now in Cross River State, Ikporom in Ini Local Government Area and Edem Aban in Abia State; Eyo Abasi and Ilue in Oron Local Government Area and; Ngwa in Abia State and Ikot Umo Essien in Akwa Ibom State [13].

Farmland ownership in Nigerian traditional communities in pre-colonial times was customary and the knowledge of their boundaries was also passed on orally to their people [14]. Sometimes, amongst the people, the use of artificial monuments such as fences, hedgerow, hills, valleys, trees of distinct nature like Iroko, mahogany were used as boundaries and whenever there was a conflict between two communities over land, the adjoining landowners who have or claim to have personal familiarity of the boundaries were called upon to testify or arbitrate. The issues were such that internal boundaries were very dynamic and were often being dictated by either the political or military influence of the land owners or communities [14]. In the colonial days, a more methodical process of mapping the boundaries was used by the colonialists as the boundaries generated were sometimes without the proper human groupings across cultural, community or ethnic lines. Rather, they were based on the convenience of the colonialists [14]. According to these notions of boundaries were: ...deconstructed to delineate the European littoral spheres of influence and further deconstructed on Westphalia model during 'the cutting of the African melon' at Berlin (1884-1885) [15]. With the imposition of these linear constructs by the colonising powers, the economic networks as well as political and social patterns across Africa radically changed (p.2). Consequently, the boundaries were characteristically arbitrary, linear, territorially fixed, inflexible and have often been seen as separators and barriers, rather than integrators [14]. Again, according to him, boundaries such as iron rods, wires, and beacons were erected to physically separate related groups of people. In the post-colonial period, according to the issue of boundary mapping and delineation to avoid boundary conflicts between and among communities, local governments, states and federal jurisdictions mostly continued in line with the colonial mapping approach [14].

Land Policy and Control of Land

Land ownership structure in Nigeria has evolved over the years till the time Land Use Act was established in 1978 known as Land Use Act of 1978. The purpose for establishing this Act was to harmonise and regulate land ownership in the country. During the pre-colonial period, land tenure system in Nigeria was the customary land tenancy where land holdings were owned by families, villages, communities and towns. Land was owned by families and communities in trust for all the family members. The legal

estate under customary land tenancy was vested in the community or family as a unit [16]. According to Dosumu (1977) and Aniyom (1978) cited in [16], the customary land tenure in Nigeria comprising the Southern Regions of Nigeria before colonial rule was held in the following ways:

- i. *Communal lands*
- ii. *Stool or chieftaincy lands*
- iii. *Family lands, and*
- iv. *Individual or separate property.*

The communal land comprised lands which the entire community has an individual interest. These community lands were found among the Yoruba and comprised the Oba's palace and surrounding lands. The family lands were vested on individuals through the partitioning of the family land to individual members of the family. An act during the pre-colonial period showed that land held under customary tenure cannot be alienated or sold [16].

In 1975, the Federal Government of Nigeria appointed an Anti-Inflation Task Force to examine inflation in the economy. The Task Force identified the land tenure system as a major cause of inflation and recommended that a decree be formulated to cover all land in principle in the state governments. The recommendation was rejected by the state governments. In 1976, the Federal Government appointed a rent panel to review the level and structure of rents in relation to the housing situation in the country; this panel also identified the land tenure system as a major hindrance to rapid economic development in the country. In 1977, the Federal Government again appointed the Land Use Panel to study the land tenure situation. The term of reference was:

- 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 analyse the implications of a uniform land policy for the country;*
- iii. *To examine the feasibility of a uniform land policy for the entire country, make recommendations and propose guidelines for their implementation; and*
- iv. *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 growing population in both rural and urban areas and make appropriate recommendations [17].*

The Land Use Act of 1978 was established purposely to unify land policy throughout Nigeria. It was also established to eradicate land speculation so as to protect the rights of all Nigerians to land. As a principal Nigerian land policy, the Land Use Act has done away with the various state land laws governing land tenure system in the country [18]. With the Land Use Act, individual ownership was disallowed, and the state governor replaced the chief, family head as the controlling force behind the land. This was done to make urban expansion easier; so that ethnicity would be less of a factor in land ownership in urban areas as indigenous groups often controlled lands in the older urban areas; to encourage the non-indigenous population have access to land, and to curtail land speculation by limiting the amount of land owned by individuals. While this practice was still in place, the traditional rulers still exert influence over the land and generally refused to relinquish their control over it, and the Land Use Act has not stopped land

hoarding or speculation [18]. According to Okolocha (1980) cited in [18] the powerful have manipulated the system: the State lacks the will to implement it; and generally the principles have not been upheld. The inadequate payment of compensation to expropriate land owners is believed to contribute to the current land crisis in Nigeria and Akwa Ibom State in particular. Lack of transparency, lack of professional standards, bad governance and corruption are also believed to be responsible for inadequate compensation assessment and payment.

The promulgation of the Land Use Act was aimed at redirecting the general idea of pre-existing land tenure system in Nigeria through the application of a uniform statutory regulation of ownership and control of land rights and to stimulate easier access to land for greater economic development as well as promote national social unity. In an attempt to harmonise the different pre-existing land tenure system in the country, the Act has created many forms of tenure resulting in insecurity of right of occupancy granted under the Act, there exist also excessive bureaucracy in obtaining Governor's consent and approval for land transactions and certificate of occupancy [19]. The process of acquiring land under the Land Use Act by individual and organisations do not often come easy as such as subjected to corruption. Any ownership without the authority of the state government or local government would be regarded as illegal. The Land Use Act of 1978 is regarded as anti-people and oppressive, and cannot enhance sustainable development in any egalitarian society, because land ownership system restricts the citizen's right to occupy land, buy or sell their land without obtaining the consent and approval of the Governors as provided in the Act [19]. Payment of land compensation in Nigeria has generated controversies, lapses and disputes. Claimants whose interest had been revoked are always disadvantaged and usually left in a position far worse than they were before the revocation. Because of this act, Nuhu, (2007) cited in [18] suggested that steps should be taken to remove the Land Use Act from the Constitution of the Federal Republic of Nigeria. He recommended that: Professionals should be involved in the formation of an effective National Land Policy for Nigeria; he noted that, the absence of any implementation guidelines for Land Use Act has made it difficult for the different States to have a uniform approach to the implementation process as against the major objective of Land Use Act. The National Land Policy lacks institutional capacity to respect human dignity and rights; it also lacks administrative as well as infrastructural and professional expertise for the operation, which adversely affects the effectiveness of public sector land management [18].

It is further observed in the Land Use Act of 1978 that there is lack of adequate capacity for conflict resolution with respect to disputes arising from unjust and unfair revocation of rights of occupancy granted under the provision of the Act. The Act has a tedious process for one to obtain a Certificate of Occupancy despite the fact that land title registration started in Nigeria as far back as 1863. Available data indicate that only about 3% of the land in Nigeria is registered. This means that most of our land area (97%) are still not easily convertible to capital and constitute what land economists regarded as dead capital. It is disappointing that under our present land policy, an individual or family with an acre or a plot of land cannot use the land as security for a loan to invest in a business [20].

The 1976 United Nations official policy on land states clearly that

unequalled and restricted land access is a principal instrument of uneven accumulation of wealth leading to social injustice, and differential dominance of a given land use over another. The policy suggests that acceptable land policy should be such that removes obstacles in the planning and implementation of even development schemes across regions, countries, continents and the globe at large [21].

Land policy in Nigeria is tied to government needs and development and has therefore been criticised to be causing continual trouble by injustice, loss of land, boundary clashes, and lack of transparency and inaccessibility of land to urban and rural poor. Some challenges are seen to exist in Nigerian Institutional frameworks which bother on the state and public land management and could jeopardise the achievement of good land policy in the nation. In this regard, it is worth mentioning that holistic review of the Land Use Act is carried out. The National Boundary Commission Act, Cap. 238, Laws of the Federation, 1990 was repealed and a new National Boundary Commission charged with more powers and functions; and for related matters was established and commenced in 2006. The Commission established the State and Local Government Boundary Committees to deal with matters affecting States on their borders with neighbouring States including land and maritime. The Commission stated that the State and Federal Capital Territory Boundary Committees shall each:

- i. *Deal with inter- and intra-Local Government disputes within the State and the Federal Capital Territory;*
- ii. *Define and delimit inter-Local Government Area or Area Council Boundaries in accordance with the delimitation instrument or document established for that purpose;*
- iii. *Liaise with the Zoned Liaison Officer of the Commission in the State and the Federal Capital Territory;*
- iv. *Identify and intervene in areas of potential disputes in the State and the Federal Capital Territory;*
- v. *Hold meetings, at least once in every quarter, to ensure maintenance of peace and order in the border areas;*
- vi. *Liaise with the State Boundary Committees of neighbouring States with the view of taking joint measures that shall promote good inter-community relationship;*
- vii. *Arrange with other State Boundary Committees for joint utilisation of shared resources and facilities along their common borders;*
- viii. *Encourage and promote joint inter-community development ventures among border dwellers;*
- ix. *Monitor the activities of Local Government Boundary Committees within the State and the Federal Capital Territory, Abuja as the case may be, and deal with disputes which cannot be settled by the Local Government Boundary Committees;*
- x. *Encourage negotiated settlement of boundary disputes in preference to litigation; and*
- xi. *Carry out awareness and enlightenment campaigns among the people in the State and the Federal Capital Territory, Abuja as the case may be, on the essence of boundaries in order to foster peace and harmony among the people living along boundary lines.*

The Commission further stated that the functions of the Local Government Boundary Committee shall be to:

- i. *Deal with inter-community boundary disputes;*

- ii. *Liaise with neighbouring Local Government Areas towards evolving joint programmes that shall promote peace and harmony among border dwellers;*
- iii. *Encourage negotiated settlement of boundary disputes in preference to litigation;*
- iv. *Hold meetings, at least once quarterly, to identify areas of potential boundary disputes and alert the State or the Federal Capital Territory Boundary Committee, as the case may be [22].*

Issues of land access and distribution are important in the content of land and people's power relationships with it. This could be seen in conflicts arising between local communities which most resulted in environmental migration. Nigerian policies have long enduring history in forms of traditional land tenures, statutory land laws, the Land and Native Rights Proclamation and lastly the currently operational Land Use Act of 1978. The Land Use Act has tried in unifying and streamlining land transactions across the country. It has done away with the various local and regional land laws that govern land tenure system in Nigeria [23] Basher (2008) pointed out the importance of land policy and notes that it is expected to improve economic growth, eradicate poverty, promote good governance and encourage environmental sustainability. [14] States that recently, the National Boundary Commission and the International Boundary Divisions of the Federal Survey Department, Federal Ministry of Works were established to resolve boundary conflicts and promote peaceful co-existence among the boundary impacted groups within local and international communities. These agencies, however, have been assigned the responsibility of investigating, delineating, demarcating, surveying, mapping and maintenance of interstate or international boundaries and their emphasis is always on International or State boundaries to the neglect of the aspirations of the people at the grass-root boundary units. In other words, the communities and local governments that are the building blocks of the supra-boundary units are not given serious attention [14]. Beside, Akwa Ibom state government is faced with both intra and inter communal boundary issues as well as inter state, most of which resulted from state creation. The state policies over these issues are handicapped by the Federal government Land Use Act, as state regulatory powers over boundary issues is envelop in the Federal government umbrella. Hence, conflict transformation in these areas becomes impossible.

Conclusion

The central concern of boundary issues is that endemic and protracted social conflict is destructive and should be prevented if possible or contained once it develops. In other words, government policies should go beyond conflict limiting strategies involving altering incentives, pay offs or the organisation of society. There is also an imperative need to "alter the dominant metaphors surrounding a dispute or the interpretations of the parties in conflict" [25]. which has been the focus of multi-level attempts to resolve most especially communities' conflicts. The extreme manifestations of these border conflicts and its attendant excesses have been as a result of inadequate government policies which had led to series of violent collapse of civil disorder and the emergence of a malignant social condition of insecurity breeding destruction and loss of lives and properties; and to a large extent, result in creating large streams of internally displaced persons.

Thus to avoid these boundary issues at the grass root, the communities and local governments that are the building blocks of the su-

pra-boundary units should be given serious attention. Issues affected by boundaries complexity should have government regulatory authorities and leadership of public officials including traditional rulers to regulate policies that prioritise human lives and security [24].

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