1. Introduction

As cities become the center piece of contemporary development and as land become more scarce and inaccessible for requisite developmental purposes, the quest to ration supply and control and or regulate its use become more compelling. This is the rationale for the evolvement and or enactment of various land use control laws and regulations designed to safeguard, conserve, disburse and regulate the use of land in the interest of the overall public interest (Agbola, 1997). Such laws include: zoning regulations; building bye-laws; density control, land acquisition laws; effluent discharge laws etc. As observed by Mabogunje, Mistra and Hardoy (1978), these regulations fall into the realms of space-use density control, health sanitation laws and community facilities and services provision standards. Since land for residential purposes is the single largest use of urban land, land for human settlement purposes need to be husbanded in a way that will balance long and short term need of the community and resolve the conflicting claims of different interest groups. The functions of evolving and enforcing land use regulations and resolving conflicting land interests are vested in urban planners whose ultimate goal is to achieve a healthy, conducive, satisfying and aesthetically pleasing environment in which to pursue different kinds of human activities.

However, a healthy, conducive and satisfying environment may not evolve from human settlements unless there is adequate provision for the monitoring and control of housing units. The means through which this is done in planning is called ‘development control’. Development control is of two types, land use zoning and planning standards. We are concerned with the latter in this paper.

Generally, planning standards are of two types: prescriptive and legislative. While zoning prescribes guidelines or specifications for the dimensioning of land uses in the preparation of development schemes, planning standards are usually mandatory and inflexible. Such specifications are instructions which prospective developers must adhere to before development can be approved in designated areas of a country. As is to be expected, these standards vary from country to country and also over time within a given country according to the level of social, economic and cultural development of that country. Since house building constitutes the most important land use element in most planning schemes, it is therefore mandatory that planning standards should be firmly entrenched in the building regulations of most countries.

In the developing nations, ravaged by poverty and helmed in by bad governance, majority of human settlements are of the informal types that hardly meets the requisite building standards of their respective countries. These housing units in unwholesome environments are deemed substandard and therefore unfit to live by humans. They are
thus declared illegal by housing and governmental authorities. Yet, this is where between 50% and 80% of residents in many developing nations’ cities live. Since they are illegal, they are often targets of demolition. The issue of critical concern here, therefore, is what constitutes illegality and from whose point of view? How are the residents in many of developing nations cities coping with it?

These are some of the questions this paper seeks to answer using the city of Ibadan as a case study. After this initial introduction the next section briefly examines the origins, types, goals and legal prescriptions of building legislation. Thereafter, the politics and administration of building regulations as they relate to Nigeria are discussed. The response and coping mechanisms of Ibadan residents to the high and most often unattainable standards (and therefore susceptibility to illegality) are presented in section four while there is a short concluding remark.

2. **Building Standards: Origins, Types, Goals and Legal Prescriptions**

The World Health Organization (WHO) estimated that five million deaths and another two to three million cases of permanent disability could be prevented annually if housing conditions could meet a safe standard level. In most countries of the world, building regulations represent a collection of current and past wisdom on what constitutes a building that is both safe and will not impair the health of the occupants. In most cases, as observed by Murta and Williams (1987), such wisdom represents an accumulation based largely upon responses to failure.

According to the Harvard Graduate School of Design (1989), standards are not developed in the abstract but are an embodiment of laws, customs or institutional objectives. Many of the building standards used today have their origins in building, health and sanitation codes formulated in most European and American countries in the late 19th Century. For example, the compulsory inclusion of pipe-borne water in new buildings was a reaction to the spread of diseases among the population, while the quest for protection from fire outbreaks led to the evolution of fire regulations for different types of buildings. Examples of how early building codes attempted to improve environmental conditions include those that prescribed access to sunlight and ventilation, the structural integrity of buildings, protection from diseases spread by insects and rodents, minimal level of sanitation and reduced housing densities. As new problems in the level of the habitability of homes arose, and as these problems impaired the satisfaction of occupants with their housing and especially their safety, new building regulations were evolved.

By virtue of the social, economic and cultural heritage of most developing nations, especially Nigeria, building standards have become a veritable agent of regulatory authorities. Unfortunately, however, and unlike the process of evolution of standards in response to observed failures in the developed nations, the building legislation adopted in most developing nations was imported from the developed nations without serious modification to fit the socio-cultural and economic circumstances of the country it was imported into. In the Commonwealth countries, including Nigeria, British based legislation was introduced. In Nigeria, the existence of two cities within a city (the
traditional and the modern), the consequent adoption and use of two different sets of building/planning legislations and the eventual application of modern legislation to all segments of the city at independence, caused the use of unduly expensive, culturally and climatically unsuitable building materials and techniques. Similarly, the basic health reasons why those laws were evolved in the first instance in their country of origin may be inappropriate for Nigeria.

Whether imported or fashioned locally, building standards as a codification of the rules specifying how individuals may build in any given country have different names within and between countries. The most common ones are: Building Rules and Building Regulations. Whichever name is adopted, the rules/standards often carry a sufficient dose of authority and coercion derivable from the statute books of the land. Ideally, a good building regulation should not only be prescriptive or regulatory; it should be educative and easily understood by all the parties involved in the building process. According to Yahya and Associates (1982), an acceptable code must be technically feasible in that all the materials and techniques specified must result in safe and sanitary structures; there must be economy in the use of materials, labour and land; the code must be sympathetic to the needs of the poor by not penalizing them and taking undue advantage of their poverty, ignorance and lack of influence; must be compatible with the use of traditional skills and local materials; must be easy to administer from the view of administrative resources such as manpower, time, accommodation, transport and equipment; enforceable to the extent that the code is not so permissive that it can be totally ignored; must be consistent with the national housing policy and; must be essential to public health, safety and well-being.

In the Nigerian context, it is not clear to what extent the existing building standards conform to these requirements of an acceptable and good standard, especially as they relate to technical feasibility, economy in the use of materials and especially, sympathy to the needs of the poor, etc.

3. **Legal Prescriptions for Constructing A Typical Housing Unit**

The use of the current building legislation in Nigeria commenced on the 2nd of June, 1960. This piece of legislation was known in the Old Western Region (now Oyo, Ogun, Osun, Ondo, Edo and Delta States) as the Western Region Law of Nigeria 171 of 1960. Currently known as the Building Adoptive Bye-Laws in most of these States, it is a derivative of the Public Health Law No.24 of 1957 and the Local Government Law of Nigeria No.12 of 1957. These laws specify where and how to build in any given Nigerian settlement, they include laws on method(s) and materials of construction, and the dimensioning of the ancillary services around the house. The law was emphatic that no building should be erected without a building plan, duly certified by the health officer, the works supervisor and the town planning authority, and no person may utilize more than half of the total building plot for the building.

In constructing the house, the thickness of the foundation for a bungalow was specified to be not less than 6” while three additional inches were to be allowed for each additional
floor up to a maximum thickness of 12”. The minimum permissible thickness of walls for the construction of a bungalow are: 12” if you use mud for construction; 12” for landcrete; 9” for cement and sandcrete; 9” for burnt brick; 12” to 14” for stone and 8” for Rosacommeta blocks. For single storey buildings, mud is not allowed as a material of construction. The thickness of load-bearing walls for the first floor of the single storey building is about the same as for the bungalow while the ground floor has variations for burnt brick (13.5”) and stone (18”). There are also specifications for the construction of floors, roofs, drainage, size of rooms, fences, etc. Contravenors of these laws shall, on conviction, be liable to a fine not exceeding 50 or in default of payment, an imprisonment of three months.

4. Politicizing Building Regulations

These legal prescriptions and the cost implications for potential builders have always generated conflict between the major actors in the planning process and have inevitably led to the politicizing of the legislation through the involvement of the politicians. Prospective landlords want to build with maximum ease and minimum problems and may not have the knowledge, time and patience for the town planning official whose duty it is to enforce the by-laws. The sometimes bureaucratic and corrupt-ridden building plan approval process has become a major institutional bottleneck which the prospective builder will have to contend with (Agbola, 1987). Unamused and impatient with the planning authority, the builder goes to the local politician to whip up sentiments about the impossibility of the town planning office and the need to do something urgent. The stage is now set for a major conflagration as the major actors – the public, the planning authority and the politician – are present. Irrespective of the mode of governance, whether military or civilian, the involvement of the politician in planning is sometimes at the behest of the public, but political actions are usually deemed to be ‘in the public interest’. In some cases, the enforcement of bye-laws by the planning authority has been used as an excuse for scoring cheap political popularity or redressing old scores by rival political groups. Ibadan provides a good example of the politicization of building regulation/planning for political purposes.

According to Egunjobi (1985), there are two main reasons why politics have exercised an overriding negative influence on development control, and hence the enforcement of planning/building legislation, in Ibadan. These are: the Ibadan-centered nationalism which is synonymous with the parochialism of the early Ibadan politicians; and the power determinism of policy actions. While the former used the superiority of the natives over strangers to create intra-ethnic animosity as epitomized by the Ibadan Nationalist Political Party (IPP), the latter was predicated on the maxim of ‘winner takes all’ or ‘win or destroy’. These factors provided the main reasons for the politicization of the building legislation in Ibadan and its eventual ineffectiveness in the Ibadan region.

For example, the first attempt to introduce development control which is essentially the implementation of building regulations in Ibadan was in 1954, but this was effectively resisted by the Mobolaje Alliance members in the then Ibadan City Council at a parliamentary meeting on the 29th of March, 1954 (Adebisi, 1974). A renewed attempt
was made in 1955 after the dissolution of the Mobolaje Alliance and the appointment of a provisional council to implement the regulations. These attempts which started with the demolition of some unsightly and unauthorized structures, especially along Lebanon street, soon met stiff and organized resistance from the traders and the leader of the opposition party, late Adelabu Adegoke. In spite of this resistance, it was apparent to everyone that there was a need to guide the growth of Ibadan.

Accordingly, on the 11\textsuperscript{th} of November 1957, the Western Region Executive Council made a resolution setting up a Town Planning Authority in Ibadan. The establishment of this Authority became law in 1958 when the Western Nigeria Gazette No.13, Vol.VII, was published on the 6\textsuperscript{th} of March. For the first two years of its existence, the Authority was engaged in public enlightenment campaigns, but when it started its legislative functions in 1959, it was in the midst of a political climate rife with suspicion between the ruling and the opposition parties (Egunjobi, 1985). It was not surprising therefore that the opposition party whipped up sentiments against the ruling government using the building legislation as a veritable tool. It was stated by the opposition party, NCNC that AG, the ruling party, intended to, and were actually using the Planning Authority in the exercise of their duties to oppress the people and demolish houses of the opposition members. It was within this volatile political context that the Planning Authority was re-organized in 1963.

With the employment of more competent staff, the Authority seemed poised for the effective discharge of its functions which necessarily involved the demolition of illegal structures. In the attempt to implement the latter, scores of petitions soon reached the Ministry of Lands and Housing, and the pressure was so much that the action and power of the Authority to demolish were suspended (Egunjobi, 1985). The people saw this victory against the Authority as being granted the license to build anything. This so alarmed and appalled the Minister in charge of Lands and Housing (and the Planning Authority) that he convened a meeting of the Authority to dialogue with him on the issue and find a solution that would create a balance between the preservation of the environment and the wishes of the electorate.

While the Minister was looking for a middle of the road way, the aggrieved public who did not forget the demolition threat sought every possible way to vent their anger on the probably unsuspecting Authority. The opportunity came during the 1967 taxi drivers’ riot when the Authority was looted and the officials assaulted. Another opportunity came in 1969 during the more organized Agbekoya riot which was a tax revolt turned into a social protest. Among the demands of the Agbekoya people was the total abolition of the functions of the planning authority. The then Military Governor of the State, mindful of the on-going civil war, instructed that planning controls should not be effected in the core areas of the city. This directive was unfortunately interpreted to mean that the public could go on with unplanned construction. By the time the riots died down and the Governor restored the powers of the authority to it in 1970, the condition of the core area had become chaotic and the hitherto salvageable area rendered hopeless for planning. Planners emerged from this debacle as battered individuals whose image before the public had been reduced to ridicule.
5. Coping with Illegality: The Response of Ibadan Residents

Our discussions have shown that the main goal of building regulations is to build a conducive and satisfying environment and that it would be difficult, if not impossible, to carry out complex planning operations without them. Available evidence in the literature, however, indicates that building regulations in Nigeria are to a large measure irrelevant to the needs of the urban poor in achieving the stated goal. The existing minimum standards are not what the poor can achieve with available resources and consequently, they contravene these regulations regularly and often flagrantly. Accordingly, building standards have been looked at as the invention of the rich to stifle the housing ambition of the poor.

Usually, the poor who are desirous to build, find themselves unable to do so because of the plethora of regulations to conform with, beat the law by contravening it mainly through mass squatting and illegal construction and on occasion violating building regulations. Unfortunately, the massive contravention of these laws leads to slum areas which are regarded as unsafe and unhealthy for the inhabitants. A cursory look or a one time assessment of a place may tell us nothing of the real story. Thus, for government officials or indeed anybody to know whether an area is a slum or harmful to the inhabitants, there must be a realistic knowledge of how much money the inhabitants of the ‘slum’ have, what their levels of expectations are and what are the alternatives open to them. The problem at hand is simple.

The people want to build but they cannot build according to the stipulated minimum building laws because there is a yawning gap between their resources and the amount required to build a standard house. The other side of the story is that the government to whom they pay their taxes is unable, for a variety of reasons, to close this gap through housing subsidies. Thus, the people continue to build according to their resources and often in defiance of the existing building regulations.

As evident from section four above and perhaps triggered off by political situation, the people reacted to the stifling building regulations by causing political unrest such that the government jettisoned the building regulations. In 1981, the Commissioner for Local government, who was in charge of planning in 1981, instructed that any building under construction which had violated any building regulation, but which had not been detected before it got to the lintel level should not be demolished. Many people saw this as a way to circumvent the rigours of obtaining plan approval by the authority. Most would assemble the necessary materials by or before Friday afternoon at the official close of the day, work would commence on the house and by Sunday evening, the house has reached the lintel level and was thus immune from the powers of the authority. This continued till 1983 and most of the disorderly development witnessed on the other side of the Ibadan end of the Lagos-Ibadan Expressway is traceable to this politicizing of building laws in the State. Attempts to redress this mistake have proved difficult, time consuming and costly.
6. From Minimum Desirable to Minimum Feasible: Some Concluding Remarks

The consequences of constructing human settlements without any form of standard may not be desirable. Yet, it is apparent that most residents of developing nations cannot afford to build according to existing regulations, a situation which make their settlements illegal. However, why not allow people to build according to their purse but in line with revised and adjusted building rules and contemporary reality? This is the question to which contemporary planners must find answer.

According to Fitcher et. al. (1972), properly designed performance standards for the physical, economic and social components of housing would revolutionize the role and impact of housing standards generally. This will in turn shift emphasis from the minimum desirable to the minimum feasible standard and this, I think, is the goal of a refurbished housing standard which will be a realistic response to both the nation’s housing problems and its peculiar economic situation. This will remove the problem often associated with these unrealistic minimum standards such as: premature obsolescence and deterioration; inhibition of progressive development; and the often destructive and emotional reaction to official enforcement of the minimum standards. The general view of these discussions as buttressed in the literature is that the minimally prescribed building standards adopted in most countries of the developing world have not worked well for the majority of people whose average income or level of material consumption are about the lowest in any country.

The continuous use of this minimum as opposed to the feasible standards in most countries of the world, as typified by Nigeria, may be due to the mental lethargy of the nations’ officials to revise and evolve new laws different from the ones inherited from the colonial overlords. It is common knowledge in Nigeria, for example, that until 1992, planners operated under an obsolete legal framework. While a new law guides general planning practice, the nation has to wait for a revision of other aspects of the law such as the building regulations.

As a guide to what is feasible in contemporary times and in sharp contradistinction from the prescriptions of old but existing legislation, various researchers have sought to find out the effect which a reduction in the existing standards would have on the health and safety of the inhabitants. Rather than have adverse effects, significant reductions in the existing legislation have had beneficial effects on cost. According to Olurin (1988), building standards have been evolved according to the constitution of the human body and his/her daily activities. Any re-appraisal of these laws must be such as will not impair these human functions. Some of the elements of the regulations that need revision in order to decrease the cost of construction without impairing human functions and their health and safety include those related to: floor areas of rooms; height of walls; plot coverage; and housing density.

Table 1 presents the minimum building standards for different aspects of a house as enforced by the planning authorities in most of Southwestern Nigeria.
Table 1: Minimum Standard Size of Rooms and Suggested Reductions

<table>
<thead>
<tr>
<th>Type of Room</th>
<th>Minimum Standard Size by Planning Authority in m²</th>
<th>Feasible/ Suggested Size in m²</th>
<th>Reduction in m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Living/Dining</td>
<td>18.00</td>
<td>12.00</td>
<td>6.00</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>36.00</td>
<td>27.00</td>
<td>9.00</td>
</tr>
<tr>
<td>Kitchen</td>
<td>6.00</td>
<td>4.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Bathroom</td>
<td>3.00</td>
<td>1.20</td>
<td>1.80</td>
</tr>
<tr>
<td>Toilet</td>
<td>2.00</td>
<td>1.50</td>
<td>0.50</td>
</tr>
<tr>
<td>Total for Rooms</td>
<td>65.00</td>
<td>5.70</td>
<td>19.30</td>
</tr>
<tr>
<td>20% for Passages and Thickness of Walls</td>
<td>13.00</td>
<td>9.14</td>
<td>3.86</td>
</tr>
<tr>
<td><strong>Total Floor Area</strong></td>
<td><strong>78.00</strong></td>
<td><strong>54.84</strong></td>
<td><strong>23.16</strong></td>
</tr>
</tbody>
</table>

Source: Based on the building and sub-division regulation in Oyo, Ondo, Kaduna and Kwara States and Neufert’s architects data.

The table shows that about 20% of the entire standard could be done away with without any danger to health and safety. Using Table 1 figures to cost a ‘standard’ 3-bedroom bungalow, a luxury version of the standard prototype and an adjusted standard bungalow, a professional quantity surveyor concluded that cost could be reduced by about half minimum standard.

It is therefore the considered view of this paper that if building regulations are drastically reviewed and the feasible regulation is adopted, there will be less problems of conformity with the rules and the enforcement agencies will have less problems with implementing the revised rules. There will thus be little problem of illegal settlements. Similarly, when the laws are almost within the reach and acceptable economic means of the populace, there will be less incentive to use the building standard as a political tool and it will be less prone to politicization.
References.


