



LEGAL ISSUE BRIEF

Issue 1, September 2023

FORESTALLING BUILDING COLLAPSE IN NIGERIA: IMPERATIVE OF LEGISLATIVE INTERVENTION

Shamsu Yahaya, PhD, BL and Edoba B Omoregie, SAN, PhD, BL
Department of Legislative Support Services
National Institute for Legislative and Democratic Studies, Abuja

1. Introduction

Nigeria's real estate industry is one of the most vibrant sectors in the country. Indeed, the industry has grown in recent years, enabling many investors to diversify and build their portfolios. Despite the sector's vibrancy, frequent building collapse has become an enormous challenge. It is estimated that from 2010 to 2020, forty-eight buildings have collapsed in Nigerian urban cities, with about a 77% rise from the previous decade.¹ Experts point to incompetence and corruption, flouting of building codes, use of fake and substandard building materials and negligence as reasons behind frequent building collapse in Nigeria. Though the challenge of building collapse is not peculiar to Nigeria, the frequency and circumstance of each collapse also indicate a

vacuum in the regulation of the sector and an inadequate legal framework.²

Unfortunately, the menace of building collapse has cast doubt on the competence of the nation's building professionals responsible for designing and monitoring the construction works at building sites. Owners of buildings under construction also have a share of the blame because they derail from their approved plans and often shun professionals to cut costs. Approving authorities also need to monitor compliance with approved plans. Furthermore, the high cost of building materials has led contractors with eyes on profits to patronise substandard materials. Therefore, these short-cut measures have contributed to the occurrence of failed buildings in the country.³ Against this

¹ William Barnabas Qurix and Rahila Gugule Doshu, 'Mitigating Building Collapse in Nigeria' <file:///C:/Users/Pool%206/Downloads/Mitigating_building_collapse_in_Nigeria.pdf> accessed 07 September 2023.

² Nigerian Tribune, 'Building Collapse: Is Nigeria Enacting Adequate Laws or Suffering from Breach in Implementation?'

<<https://tribuneonlineng.com/building-collapse-is-nigeria-enacting-adequate-laws-or-suffering-from-breach-in-implementation/>> accessed 07 September 2023.

³ Adebowale Philips Akinyemi and others, 'Building Collapse in Nigeria: Issues and Challenges' *Conference of the International Journal of Arts & Sciences* [2016]



backdrop, this brief discusses the need to address the problem of building collapse in Nigeria through legislative intervention.

2. Imperative of Building Regulations

On almost a daily basis, individuals and corporate bodies deal with transactions involving building regulations approval. Whilst most people know that they need to check whether planning permission is required should they consider carrying out works on their property, many need to be made aware that they also need to check the position regarding building regulations.⁴ Building regulations approval may be issued by the local authority or by a contractor registered with an appropriate competent person scheme.⁵

Building regulations set forth guides on what to construct, how and where. Accordingly, all the government and non-government authorities work according to the building regulations applicable in their locale. Any building plan submitted to the authorities which does not comply with the building regulations of the authority concerned is not passed. Hence, compliance with them is legally mandatory, whereas non-compliance is punishable. These rules and regulations apply to all, which helps to bring about a more uniform development.⁶

Building regulations keep buildings safe for people because they set minimum standards for construction and other safety protocols. This ensures that buildings can be relied on to withstand different conditions. Without building regulations, builders may build structures that appear safe and sound but are likely to crumble under extreme weather.⁷ Therefore, building codes and regulations make provisions to ensure that structures can support specific weights and pressures. Indeed, if a building is constructed contrary to building regulations and if potential buyers find out about it, they would most likely avoid that structure. Other neighbouring building owners may also fear for their buildings and tenants and come after the building owners with legal suits.⁸ The regulatory authorities are also likely to come after the building owners.

Therefore, persons engaged in constructing buildings must comply with building regulations. Apart from individual plots or land owners, buyers of under-construction and constructed buildings should also have a thorough knowledge of the building regulations applicable in that jurisdiction. This will help the buyers question the construction standards of the developer. For residential buildings, the rules entail details such as the width of a setback, percentage of Greens, Built percentage,

⁴ DF Legal LLP, 'The Importance of Building Regulations' <<https://www.dflegal.com/the-importance-of-building-regulations/>> accessed 08 September 2023.

⁵ *Ibid.*

⁶ Vaibhav Bhati, 'Importance of Building By-Laws or Building Regulations'

<<https://www.linkedin.com/pulse/importance-building-laws-regulations-vaibhav-bhati/>> accessed 08 September 2023.

⁷ *Ibid.*

⁸ *Ibid.*



distance between two buildings, height of buildings, and distance from high-tension electrical lines, among others.⁹ Since the rationale behind constructing buildings is to sell to the end users eventually, the end users must also take an interest in gaining knowledge about building plans and mandatory construction practices.¹⁰

Enforcement is crucial to the success of building codes and regulations. Government agencies must be adequately trained and provided the necessary tools to monitor compliance and act appropriately against violators. Regular inspections and enforcement prevent unsafe practices, educate builders, and promote compliance with building regulations. Navigating building regulations and codes appears to be quite challenging in Nigeria due to limited access to information on construction regulations and codes, time-consuming bureaucratic procedures for obtaining building permits, insufficient standardisation of building codes across states; inadequate training for building professionals on building codes and regulations, lack of effective monitoring and enforcement mechanisms.¹¹

Corruption is also a significant challenge in building code enforcement and adversely affects compliance with building regulations and codes in Nigeria.¹² Building inspection officials often demand bribes from builders to compromise construction regulations. Corrupt practices also lead to substandard buildings that are dangerous for human habitation, undermining the integrity of construction regulations and codes.¹³ The result is that difficulties complying with codes lead to substandard buildings, posing risks to occupants and surrounding buildings due to the challenges Nigerians face.¹⁴

3. Framework of Building Regulations in Nigeria

Presently, there is only one national framework for building regulation in Nigeria. This is contained in the Nigerian National Building Code, 2006.

The need to evolve a National Building Code in Nigeria arose from the following existing conditions of cities and the environment:¹⁵

- (a) the absence of planning of towns and cities;

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Anthony Ikpeme Ankeli, 'Building Collapse in Nigeria: Issues and Challenges' *Conference of the International Journal of Arts & Science* (2016) (09) (01).

¹² *Ibid.*

¹³ Klāvs Sedlenieks, 'Corruption in the Process of Issuing Building Permits' <<https://www.researchgate.net/publication/26361950>

1_Corruption_in_the_Process_of_Issuing_Building_Permits#fullTextFileContent> accessed 13 September 2023.

¹⁴ Olawunmi Alade and Oghenekevwe Ibodje, 'Ikoyi Building Collapse: Challenges of Building Construction, Regulation and Protection' <<https://www.thisdaylive.com/index.php/2021/11/16/building-collapse-in-nigeria-concerns-and-practicable-remedies>> accessed 13 September 2023.

¹⁵ National Building Code, 2006.



- (b) incessant collapse of buildings, fire infernos, built environment abuse and other disasters;
- (c) a dearth of referenced design standards for professionals;
- (d) use of non-professionals and quacks;
- (e) use of untested products and materials; and
- (f) lack of maintenance culture.

In view of the above, in 2006, the National Council on Housing and Urban Development deemed it necessary to evolve the National Building Code to stop the ugly trends in the building industry, which have led to countless cases of building collapse throughout the country. The Code aims to set minimum standards on building pre-design, designs, construction and post-construction stages to ensure quality and safety in the building Industry. The provisions of the Code shall, subject to its adoption by the States, apply to and control all matters concerning the design and specification, costing, construction, alteration, addition to, demolition, location, repair and use of any building or structure, for existing or building works within the Federal Republic of Nigeria. The standards specified in the Code shall constitute the minimum requirement from which other regulations may be derived.

The Code contains rules, regulations, specifications and ethics concerning the design, construction and maintenance of buildings in Nigeria. The Code contains standards and specifications that must be enforced in building works in Nigeria. The Code states that all governments at all levels should establish a "Code Enforcement

Division/Section/Unit in their Development Control Department" that would inspect buildings and enforce the guidelines of the building code. Crucially, this inspection is done at every stage: pre-design, design, construction, and post-construction.

The Code covers various aspects of building design, construction, and maintenance, which include:

- (a) structural Design, which shall comply with the relevant codes and standards;
- (b) design the building to withstand expected loads and forces, like dead loads, live loads, wind loads, and seismic loads;
- (c) electrical Systems, which requires electrical installations to comply with the Electrical Installation Code of Practice and other relevant codes and standards;
- (d) electrical panels, circuits, switches, and outlets must be properly installed and wired to prevent electrical hazards;
- (e) water Supply and Drainage Systems shall comply with the water supply and sanitation Code of Practice and other relevant codes and standards;
- (f) Drainage systems shall be designed to prevent the backflow of sewage and other waste into the building;
- (g) fire Protection Systems shall have fire protection systems, including



fire alarms, extinguishers, hydrants, and

- (h) ventilation, which requires the design and construction of buildings to have adequate natural or mechanical ventilation to ensure indoor air quality and prevent pollutant accumulation.¹⁶

Unfortunately, the Code has yet to have full legal backing nationwide, though efforts have been made to secure legislative approval for it through the National Assembly. Though the Code seems to have received acceptance by some States, it is yet to be passed into law by all the States.¹⁷

However, there are many regulations governing building construction in Nigeria at the State level. In Lagos state for instance, the Lagos State Building Regulation and Permitting Process provides for standardised practices to ensure high level of regulatory compliance with planning and building code requirements. Also in Lagos, the Urban and Regional Planning and Development Law 2010, which was established to provide for the administration of physical planning, urban development, urban regeneration and building control. Lagos state also has the Building Control and Stage Certification Process Law, the Building and Civil

Engineering (Construction) Materials Quality Control Laboratory Law, the Model City Plans Approval Orders, Operative Development Plans, Operative Approval Orders on Approved Layout Plans, Lagos State Physical Permit Regulations 2019, Lagos State Building Control Agency Regulations 2019, Environmental Impact Assessment Act 1992 and Sections 64 (1) and 65 (1) of the Insurance Act.

In Ogun State, building regulations provide for measurements for setbacks and airspace; setback to public infrastructure and utilities; building coverage permissible per plot of land for residential, industrial, commercial and other uses; plot sizes; greenery and landscaping and permissible residential densities. Other regulations address permissible complementary developments in land use zones, parking requirements, space standards, and height of buildings, among others.¹⁸

Other states also have building regulation laws which include State physical planning law of Kwara State and Rivers; State Urban and Regional Development planning law in Adamawa State, Kano State, Taraba State, Kebbi State, Katsina State, Cross Rivers State; Capital Territory Development and Urban Regional law of

¹⁶ Nicholas Idoko, 'Navigating Building Regulations and Codes in Nigeria'

<https://professions.ng/building-regulations-and-codes/#:~:text=In%20Nigeria%2C%20the%20Nigerian%20Building%20Code%20outlines%20the%20minimum%20requirements,and%20public%20safety%20and%20comfort.> accessed 08 September 2023.

¹⁷ Josephine Ogundeji, 'Lack of National Building Code Regulation Scandalous – NIOB President'

<https://punchng.com/lack-of-national-building-code-scandalous-niob-president/> accessed 08 September 2023.

¹⁸ Ajibola Taiwo, 'Understanding Building Regulations for Better Compliance' <https://punchng.com/understanding-building-regulations-for-better-compliance/> accessed 13 September, 2023.



Ebonyi State; Space Standards for physical development of Oyo State; Edict law No 13 of 1988 of Akwa Ibom State; Building Production law 2022 of Ogun State; Building Monitoring Law of Kano state; and Urban and Regional Planning Law 2018 of Kaduna State.¹⁹

4. Building Regulations and the Constitution of the Federal Republic of Nigeria, 1999

The Constitution of the Federal Republic of Nigeria, 1999 is the grundnorm and the fundamental law of the country from which all other legislation in Nigeria derive their hierarchy and legitimacy. Section 4 (1) of the Constitution provides that the legislative powers of the Federal Republic of Nigeria are vested in the National Assembly. Section 4 (2) of the Constitution provides that this power extends to matters contained in the Exclusive Legislative List. Section 4(6) of the Constitution vests the legislative powers of a state in the House of Assembly of that State. Section 4 (7) of the Constitution provides that the legislative powers of a state House of Assembly extends to any matter not included in the Exclusive Legislative List and any matter included in the Concurrent Legislative List.²⁰

It is to be noted that in *Attorney General of Lagos State v Attorney General of the Federation*,²¹ the Supreme Court held that the power over physical planning in any state of the federation is exclusively vested in the state government and that the National Assembly lacks the power to legislate on physical planning outside the Federal Capital Territory. The Supreme Court, per Uwaifo JSC, granting the reliefs sought by the Plaintiff, held that urban and regional planning and physical development were residual matters within the state governments' exclusive legislative and executive competence. Furthermore, the Land Use Act²², which vests all land comprised in the territory of each State in the Federation in the Governor of that State²³ is one of the laws entrenched in the Constitution of the Federal Republic of Nigeria, 1999.

A perusal of the Exclusive Legislative List and the Concurrent Legislative List indicate the subject of physical planning within a state or building regulations is a matter not contained in either List. Hence, based on the provisions of Section 4 (7) (a) of the Constitution which extends the legislative powers of a state House of Assembly to matters not contained in the Exclusive Legislative List and the ruling of the Supreme Court cited above, any Act of the National

¹⁹ M. Dada and others, 'An Audit of Physical Planning and Building Control Laws in States of Nigeria' Being a Paper Delivered at the Nigerian Institute of Building National Workshop, MCPD 2022.

²⁰ Part I of the Second Schedule of the Constitution provides for the Exclusive Legislative List, while Part II of the Second Schedule of the Constitution provides for the Concurrent Legislative List.

²¹ (2003) LPELR-620(SC).

²² Cap L5 LFN 2004.

²³ Section 1 of the Land Use Act. See also Section 5(1) of the Act, empowers a Governor of a state to grant statutory rights of occupancy and easements appurtenant to statutory rights of occupancy in respect of any land within a State.



Assembly regarding physical planning in any state of the federation is a residual matter and exclusively vested in the state government. Consequently, the National Assembly can only legislate on physical planning within the Federal Capital Territory.

5. Cross-Country Experience

South Africa: National Building Regulations and Building Standards Act No. 103 of 1977

The Act provides for the promotion of uniformity in the law relating to the construction of buildings in the areas of jurisdiction of local authorities and for the prescribing of building standards. Section 17 of the Act empowers the Minister to make regulations on administrative matters, the protection of property and the general safety, health and convenience of the public regarding the construction of buildings, users and occupiers. Buildings in South Africa must comply with the National Building Regulations made under the Act.

Furthermore, the primary [Building Regulations](#) are contained within the [SANS](#) 10400 series, developed and maintained by the South African Bureau of Standards ([SABS](#)). These [building standards](#) cover various topics, including fire safety and electrical installations, [energy efficiency](#) and accessibility for persons with disabilities. Building regulations in South Africa require that all

buildings be constructed following the SANS 10400 series. This includes new builds and renovations, extensions, and alterations to existing buildings. Building, architects, contractors and [engineers](#) are all responsible for ensuring that their work meets these regulations, and failure to do so can result in legal action and penalties. The SANS 10400 series covers a wide range of topics, including the construction of [walls](#), [roofs](#), and [foundations](#) and the [installation](#) of electrical and [plumbing](#) systems. It also covers fire safety, ensuring buildings have fire alarms, smoke detectors, and fire-resistant doors. The series also provides guidelines for [energy efficiency](#), ensuring that buildings are designed and constructed to minimise their energy consumption and reduce their carbon footprint.²⁴

India: National Building Code

The National Building Code (NBC) 2005 offers vital instructions for building institutional, commercial, and residential structures. It ensures their structural integrity and safety, and looks at hazardous elements. The NBC is essential for guaranteeing structures' general safety and well-being and the people who inhabit them. The document was first published in 1970 and revised in 1983. It was updated in 2005 to include contemporary building techniques. This represents a dedication to building long-lasting, secure, and sustainable facilities.²⁵

²⁴ The Building Regulations in South Africa, <<https://sans10400.org.za>> accessed 11 September, 2023.

²⁵ Anuja Patil, 'National Building Code India - Ensuring Safety and Quality Standards'

<<https://www.magicbricks.com/blog/national-building-code/132560.html>> accessed 08 September 2023.



The NBC encourages the use of sustainable and green construction methods. Accessibility, structural integrity, energy effectiveness, and fire safety are all included. The NBC regulations must be followed for all new building and renovation projects in India. It defines rules for different things. It includes occupancy, plumbing requirements, life safety standards, and stairway width. It serves as a facility management benchmark and sets building code guidelines. Architects and builders follow these rules to make buildings that meet safety and quality standards. It also leads to safer and more consistent structures.²⁶

The NBC attempts to provide consistency in building techniques. This ensures that structures adhere to national safety and quality standards. The NBC includes measures for better ventilation, lighting, and building cleanliness. It provides a healthier living and working environment to the occupants. It seeks to increase a building's efficiency by maximising space utilisation, encouraging accessibility, and making maintenance easier. The NBC is used as a regulatory instrument. It provides instructions for contractors, architects, and authorities to follow when working on a project. The NBC equally assists in well-organised urban planning and development and promotes orderly and peaceful expansion of cities and towns.²⁷

In 2002, the Bureau of Energy Efficiency (BEE) was established under the Energy Conservation Act to lead the energy and emission-related regulations. This led to forming energy efficiency Codes – the Energy Conservation Building Code (ECBC) in 2007 for commercial buildings and the Eco Niwas Samhita (ENS) in 2018 for residential buildings.²⁸

6. Lessons from Cross-country Analysis

- a) Promotion of uniformity in the law relating to the construction of buildings and prescribing of building standards is a viable strategy to ensure building standards and forestall building collapse;
- b) Empowering a regulator to make regulations for the protection of property and the general safety, health and convenience of the public in so far as they relate to the construction of buildings can go a long way in ensuring compliance with building standards;
- c) A National Building Code, backed by law, provides consistency in building techniques and ensures that structures adhere to national safety and quality standards.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Sarah Khan and Sweta Bhushan, 'India's Building Code Has a Blind Spot for a Whole Category of

Emissions'
<<https://science.thewire.in/environment/india-building-code-embodied-emissions/>> accessed 08 September 2023.



7. Conclusion

The brief analysed the imperative of forestalling building collapse in Nigeria through legislative intervention. Indeed, building collapse in Nigeria is significant and has consequences that cut across the entire spectrum of society. The Brief demonstrated that the National Building Code does not have full legal backing nationwide, though efforts have been made by the National Assembly to secure legislative approval for it. At the state level, several laws and regulations provide for regulation of building standards. However, despite the existence of these legislative interventions, rampant cases of building collapse still exist across the federation. Furthermore, legislation regarding physical planning in any state of the federation is a residual matter and exclusively vested in the state government. Consequently, the National Assembly can

only legislate on physical planning within the Federal Capital Territory. The cross-country experiences in India and South Africa indicate that uniformity in the laws relating to building standards in a country is an effective way of ensure building standards and forestall building collapse. Accordingly, the brief recommends as follows:

1. The National Assembly and the state Houses of Assembly need to strengthen the existing laws providing for building regulations, to control the rampant cases of building collapse experienced frequently in Nigeria.

2. Both the Federal and States' Ministries of Physical Planning and Building Control Agencies should be strengthened for better implementation of building laws and regulations.