

**NAME:** ZIBIRI MANASSEH

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**STATE OF ORIGIN:** EDO STATE

**LOCAL GOVERNMENT:** ESTAKO CENTRAL LOCAL GOVERNMENT

**QUESTION:** Prepare a brief paper on the customary land tenure system as practiced in your locality (state the locality, state, local government or community you are writing about). This should briefly cover the creation, ownership, management and determination of family or communal land in your locality.

**LECTURER:** Professor Adewale Taiwo, **LLD.**

**INTRODUCTION**

The utility of land has always been predominant in the dealings of individuals in society. In many societies, land as well as other resources from it have been a good metric for the measurement of the wealth of individuals. Many communities have waged war with others in pursuit of claim with regards to land and tribal disputes intra communities have gone unresolved stemming from issues closely related to land. Drawing from these, it can be categorically stated therefore that land is of no little value in society. As a corollary to this fact there have been various systems set in place by government and communities in order to oversee and regulate the efficient management of land and land resources. Customary land tenure system is one of those systems set in place as a regulatory machinery for the control and management of land and it demands much consideration because of its acceptability in the area where it is practiced and also as a result of the impact it may have birthed in subsequent land tenure system instituted in states. The premise of this work is the customary land tenure system within the Estako Local Government Area of Edo State. It examines the types of ownerships of land found within it, creation of such ownership, management and subsequent termination of family or communal land.

**CUSTOMARY LAND TENURE SYSTEM:**

Customary land tenure system has been defined as follows, the system of landholding indigenous to Nigeria[[1]](#footnote-1). Customary land tenure system features an integration of the customs as well as the practice of the people of a particular region and as a result of this it is generally recognized to be distinct from one locality or community to another. Despite this fact, the relative closeness of several communities with a state there may be featured in the customary land tenure system of an area, similarities with the customary land tenure system of another community. This may also be as a result of a generally accepted practice within a region such as: inheritance of land by the eldest male sons, within a state being present within the land tenure system of several communities in that locality. An explicit example of this is seen with respect to Edo State; in the region, a communal system of land holding is generally upheld in prominent communities such as Benin and this has spurred the assimilation of such trend in several other localities.

**OWNERSHIP UNDER THE CUSTOMARY LAND TENURE SYSTEM**

As a result of the vigor and prominence of the Benin Empire, the land tenure system found in surrounding areas bear certain similitudes with what obtained in Benin. The accepted form of ownership within Benin was such that lands within the region are vested in the Oba but regardless of this fact, the management of such land was not done with high handedness as the Oba was to be seen by all his subjects to be fair in exercising his powers over the lands vested in him[[2]](#footnote-2). He utilized the assistance of communal heads in several communities in the proper allotment and management of the lands within given areas. Also it was recognized that regardless of the presence of the Oba as the figure in whom ownership and interest for land was vested, land ownership is truly vested upon the members of the community and in furtherance of this key aspect of the customary land tenure system the members of the community are usually allowed to make use of the land during certain periods for the benefits of themselves and other members of their family[[3]](#footnote-3).

**CREATION OF OWNERSHIP**

The absolute designation of lands is not commonly found within this customary land tenure system. Individuals have the right over free use of land but there were no permanent guarantee or disposal of interest in land to particular individuals. Individuals who seek to utilize land during farming gain such rights by duly clearing of such farms at the beginning of the period[[4]](#footnote-4) and such is categorically the highest claim over land that can be made by a person within the community, such lands acquired during farming season are utilized for such farming purposes. The communal heads are still in those periods responsible for the administration of such allotted lands in a bid to ensure that no clash is witnessed between individuals in the community.

**MANAGEMENT OF LAND**

The land vested in rulers are administratively overseen by the communal heads as pointed out above. They are in charge of such management of affairs as with respect to allotment and management of land. The communal heads receive tributes oftentimes and this is received on behalf of the rulers of communities. In the management of land under the customary system, land is made available to individuals systematically. The right of use over land is usually open to individuals who require such for farming purposes and they acquire such temporary rights over land at the beginning of a farming period[[5]](#footnote-5). This right is rudimentarily available for a particular farming period as after such a period a person may not be entitled to continued usage of a particular cultivation area. It is pertinent to note that a key feature of the management of land under customary land system is that a person in present occupation of land could not be stripped of such suddenly and arbitrarily. As a result of this, only lands which were not possessed by a person already could be utilized by another person.

**DETERMINATION OF FAMILY/COMMUNAL LAND**

Land already possessed by a person for his benefit and also the benefit of his family was held for a temporary duration of time such that after a given period where there has been an expression by a person purported to be in possession of land of an intention to abandon the land, the control of land by such person is extinguished[[6]](#footnote-6). As a result of this, fallow land reverts back to the community and such can later be occupied by another person[[7]](#footnote-7).

**CONCLUSION**

Customary land law tenure system remains an embodiment of what a particular community considers important in its management and control of land. While the Etsako people are, a distinctive tribe found in Edo State with respect to their indigenous customary land tenure system the thread which runs through the garment of the customary land tenure system of several communities in Edo State also features in their customary land law tenure system.

1. Smith, I.O., Practical Approach to Law of Real Property in Nigeria (Lagos: Ecowatch Publications). P. 63. [↑](#footnote-ref-1)
2. J.U. Egharevba Benin Law and Custom Niger Press (1949) [↑](#footnote-ref-2)
3. H.L Ward –Price, Land Tenure in the Yoruba Provinces (Government Printer Lagos 1939). [↑](#footnote-ref-3)
4. ibid [↑](#footnote-ref-4)
5. Notes on Land Tenure in the Benin, Kukuruku, Ishan and Asaba Divisions of Benin Province, Government Printers, Lagos (1948). [↑](#footnote-ref-5)
6. H-L Ward Prince supra [↑](#footnote-ref-6)
7. R. Bradbury, The Benin Kingdom and the Edo speaking People of South-western Nigeria, (International African Institute 1957) [↑](#footnote-ref-7)