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Assignment

Prepare a brief paper on the customary land tenure system as practiced in your locality . This should briefly cover the creation , ownership , management and determination or family or communal landholding in your locality .

Answer

Customary law has been defined as the “ custom and usages traditionally observed among indigenous African people and which form part of the culture of those people . It is the law that was handed down from time immemorial from ancestors and as such , represents a collection of precedents and decision of by-gone chiefs. Customary law entails the customs and Usage .

According to Bronstein , “ culture is a critical part of the lived reality of people’s lives . It gives meaning to all our lives and is fundamental to our identities . Thus , culture and customs are valuable and important parts of people’s lives . However, the term “ customary law “ is used advisedly in a blanket form in this chapter and it should not be taken to indicate that there is a single uniform set of customs prevalent throughout Nigeria.

There are some concept of customary law which I will be mentioning and explaining these are indigenous to the people

i.Ownership

ii.Customary relationships .

Ownership, there is no contention as to whether or not the concept of ownership is known to African customary law . One view is that the concept of ownership is unknown to customary ideas . The other view is to the contrary , and it contends that the concept of ownership has been part of Nigerian customary law and that the concept is not strange to customary law . Sometimes the term has been used to denote “absolute ownership “ while at times , it is used to refer to “ right of occupation “ .

Ownership can be divided into sub , which are communal landholding , Family Land , individuals landholding .

Communal land holding is a land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership to any portion of such land . family land is land vested on family as a corporate entity . Individual landholding is a submitted that the basic factor responsible for this development was economic emancipation of the individual as a result of new patterns of economic activity .

Customary land tenure in my community , Odupani local government , Cross river state is communal Landholding .

Communal landholding has been described as the most remarkable principle of customary land law . By definition , communal land or community land is the land vested in the community as a corporate whole and in which no individual member of the community could claim exclusive ownership to any portion of such land . Here ,for example, land are given to that grandparents knowing fully when that they will borne children so if your child comes to claim that is an indigene of the place , a land will allocated to him for development for his family …it continues like that in order to enhance development in the community as a whole . It should be aware that community doesn’t act on his own , it said some human agent such as headman , chiefs or traditional ruler of a community who exercises the power of control and management in consultation with other senior chief or elders of the community. We can see the principle of the corporate management of communal land was stated by lord Haldane in the case of “Tijani v secretary of southern Nigeria “ in these words : “ in every case of the chief or the headman of the village it community has charge of the land and the in the loose mode of speech , is sometimes referred to as the owner . He is to some extent in the position of a trustee and such holds the land for the benefit of the community.”

Similarly , in the case of Eze v Igiliegbe &ors , the court held that it was right to presume as a matter of customary law that the land belongs to the community as a whole and that the onus was on the defendant to establish that his section had title to the exclusion of tut community as a whole .

Also , in the customary sense , the institution of communal land lacks the division into legal And equitable ownership which are fundamental principles of trust property .

In conclusion ,in my locality , it is a communal landholding as opposed to family land and individual landholding . Which land are given based on the fact that you are indigene Of the state and are given to you by a chief in which you have to be a member right and not a stranger.

References

The Nigerian Land Law by Adewale Taiwo .