**NAME: NWOKO UTIBEIMA-ABASI UWEMEDIMO**

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**ASSIGNMENT QUESTION: PREPARE A BRIEF PAPER ON THE CUSTOMARY LAND TENURE SYSTEM AS PRACTISED IN YOUR LOCALITY**

**INTRODUCTION**

Land according to Adio JSC in *Salami v. Gbodoolu[[1]](#footnote-1)* includes any ground, soil or earth or solid part of the earth surface distinguished from the sea. *Section 3 of the land use act*[[2]](#footnote-2) defines land to include any building and any other thing attached to the earth or permanently fastened to anything so attached but does not include minerals.

Customary land tenure according to Esema[[3]](#footnote-3), is the aboriginal and indigenous structure of land allotment, acquisition and use. It is a system regulated by the customary law applicable within that society. It is totally unwritten and varies from one society to another. This is only acknowledged in court if it is not repugnant to the rule of natural justice and incompatible with any law in force in Nigeria. It clearly stipulates and defines entitlements, privileges and interests that may be enjoyed on the property.

Ika local government area has a unique custom of land tenure system practiced over the years, and this unique land practice has been carried out from one generation to another. Ethnographically, Ika local government area is one of the Annang speaking local government in Akwa Ibom state whose main religion is Christianity. The main occupations of the people are fishing, farming, craftworks, etc. The Ika people migrated from old cross-river state to the present location with unique culture and tradition which promote peace among them.

**Concepts used in customary land tenure system**

**Ownership**

Henry George in his book in 1881 had this to say of ownership: “To whom the ownership of land is given, to him is given the virture ownership of the men who must live upon it”

The perception of ownership is not alien to the Nigerian customary law. It is used to donate absolute ownership. Ownership in this sense maybe held by the community, family and individuals. The most important concept of ownership is embedded in the latin maxim, ‘*cugus est usque as coleum et inferos’* meaning ‘whoever owns the soil, it is theirs up to heaven and down to earth. The court in *Abraham v. Olurunfemi[[4]](#footnote-4)* held that ownership entails a complete and total right over a property. It is not subject to the right of another person.

**Communal Landholding**

Under customary law, land is seldom owned by the individuals as the customs recognizes ownership in the community or family. This is the land vested in the community ass a whole. No individual could lay a claim to any portion of such land.

In *Amodu Tijani v. Secretary of Southern Nigeria*[[5]](#footnote-5), the court held that land belongs to the community, village or family but never to the individual when it is said:

“Land is conceived as belonging to vast family of which many are dead, few are living and countless members yet unborn”

Customary land tenure system failed to adequately acknowledge the possibility of land owned by individuals with the system.

**Creation of Family Land**

According to Udo[[6]](#footnote-6), this takes the form of deforestation of virgin forest (AKAI), acquisition, gift to Imaan and in-laws, wars, disaster or epidemic, exchange and personal property(farm land). The early migrants into new land had to undertake the task purchase, pledge which could not be redeemed. Land could be created or acquired through gift to in-laws, exchange, war defeat, etc.

**Management of Land**

Every member of the family or community is entitled to participate in the management of a communally owned property and must all be consulted and informed of any transaction carried out upon the land. The chief is obliged to inform the individual family heads and important elders of the community before taking any action step affecting the community property. The consent of the entire principal members of the community. It is mandatory that all principal members agree to a sale void but the members may challenge the sale and ask for the account.

In the recent case of *Hon. Justice Akin Holloway (RTD) & ors V. Alhaji Tajudeen Jimoh & ors*[[7]](#footnote-7),Ikyegh JCA held: “The fact that Baale (village head) could not control alienate communal land was settled by the case of *Oyewunmi V. Ogunsesan*[[8]](#footnote-8)”. Also in the case of *Offodile V. Offodile*[[9]](#footnote-9), Eko JSC held: “The settled principle of law on sale of family land without the consent of the family head of the family is void abi nitio as seen in *Akapo V. Hakeen Habeeb*[[10]](#footnote-10)*”.*

**Types of Land Holdings in Ika Local Government Area**

Among the Annang people, there are six types of land holdings:

1. Communal/Community land (Ikot Idung): This type of land is often cleared communally and kept under fellow for long periods after a cleared planting season.
2. Lineage land (Ikot Ufok): This may be pieces of land belonging to the ancestor of a particular family group.
3. Individual holding (Udedep Ikot): This is a piece of land which an individual has bought on outright sale basis. It can be inherited by his children and he can resell it at will.
4. Borrowed land (Nto Uwo Ikot)
5. Pledged land (Ubiong Ikot)
6. Sacred groves (Isong Ndem Ikot)

**Conclusion**

There are many ways in which land can be acquired, owned, managed by individuals and families in the traditional land tenure system practiced in Ika local government area of Akwa Ibom State. In Ika local Government Area, there are six types of land holding and they include: Communal land(Ikot Idung), Lineage land(Ikot Ufok), Individual holding(Udedep Ikot), Borrowed land(Nto Uwo Ikot), Pledged land(Ubiong Ikot) and Sacred groves(Isong Ndem Ikot).

Furthermore, many cases have been cited to know the position of the court on the land matter, uses and management.

**References**

* Ekong, E. E. (2003). An Introduction to Rural Sociology; Dove Educational Publishers, Uyo.
* Esema, J. D. (2002) Culture Customs and Traditions of Akwa Ibom people of Nigeria; Mocomp print, Uyo.
* Udo, E. A. (1987): Who are the people of Ibibio; Bold publishers, Calabar.

1. (1997)4 NWLR Pt499, Pg 277 [↑](#footnote-ref-1)
2. Cap 123 LFN 2004 [↑](#footnote-ref-2)
3. Esema, J. D. (2002) Culture Customs and Traditions of Akwa Ibom people of Nigeria [↑](#footnote-ref-3)
4. (1991)1 NWLR pt 165 [↑](#footnote-ref-4)
5. (1921)2 AC 399 at 404 [↑](#footnote-ref-5)
6. Udo, E. A. (1987): Who are the people of Ibibio [↑](#footnote-ref-6)
7. (2020)2 NWLR (pt.1707)27 at page 76,para E-F [↑](#footnote-ref-7)
8. (1990)3 NWLR (PT.137) 182 [↑](#footnote-ref-8)
9. (2019)16 NWLR (PT. 1698) 192 at 207 para B [↑](#footnote-ref-9)
10. (1992)6 NWLR (PT.247)266 at 293 [↑](#footnote-ref-10)