

COLLEGE OF LAW

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**COURSE: LAND LAW II**

**MATRIC NUMBER: 16/LAW01/024**

**COURSE CODE: LPB 402**

**STATE OF ORIGIN: ONDO STATE**

**LOCAL GOVERNEMENT: IFEDORE 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**

**INTRODUCTION:**

The customary land tenure system usually acclaimed to refer to the manner in which land is owned and controlled is largely peculiar to a given region, community or locality, in this way several customary land system exists across various states and communities. The variability of the system of land holding is predominantly as a result of the heterogeneity of the customs and traditions found within various communities. Customary Land Tenure System is usually an important aspect of the social existence of a community this is because even after the enactment of the Land Use Act which is the primary legislative framework established for the purpose of land administration and control in Nigeria, its relevance is still prevalent in many communities. The customary land tenure system is usually an offspring of the customs of the people within the community and a basic tenet of this customary land tenure system has been that land is to be owned by the community which certain modifications found under the tenure system of various communities[[1]](#footnote-1). This work considers the customary land tenure system found in Ifedore Local Government in Ondo State, giving gainful insights with regards to the ownership, creation of ownership, management and determination of such ownership subsequently.

**CUSTOMARY LAND TENURE SYSTEM**

Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. (For convenience, “land” is used here to include other natural resources such as water and trees.) Land tenure is an institution, i.e., rules invented by societies to regulate behavior[[2]](#footnote-2). Therefore land tenure system is a definitive system setting out the manner in which land is allocated, customary land tenure system in this light will then refer to the land tenure system set up or established within a particular community. It is already known from the first part of this work that this customary land tenure system varies from one community to another. Before the intrusion of colonialization this systems where the only ones in existence within communities but with the enactment of state legislation also, they exist side by side with designated tenure system determined by legislative framework of a state.

**CONCEPT OF OWNERSHIP UNDER CUSTOMARY LAND TENURE SYSTEM**

Under the customary land tenure system there is a variation of the understanding of the appellation “ownership” for there is usually considered to be no ownership- in the way of indefinite absolute right over land- within the scope of the customary system as the use of the word denotes in common parlance. Ownership exists in form of different categories of land holdings which involves both communal holdings which includes rights over pastures and exclusive rights of individuals to agricultural and residential parcels. This land holding metamorphoses to become ownership within the customary land tenure system. But regardless as a result of the reverence placed to the knitted relationship existing within society, communal land holding is the foremost kind of ownership with respect to land.

**CREATION OF OWNERSHIP**

* Where the control over a land is vested in a family, the rights over such land is acquired as a result of being passed by succession to the descendants of the original owner. The title to such land is vested in members of the family as a corporate body. Every member of the family is assigned a portion of the family land upon request and does not have the absolute right on such parcel of land, after the portion so assigned has been farmed by a member and his descendants for many farming rotations, he gradually establishes the primary right to the use of the particular portion before any member of the family[[3]](#footnote-3).
* The community is the focal point for the vestment of land ownership. Community is viewed through the lens of aggregation of families within a locality. With this, community land is regarded as the land jointly owned by a large group of people and every member of this large group has equal right to the use of the land[[4]](#footnote-4).

Individual land ownership as is already known is not as entrenched as the communal land holding however individuals from family and also by virtue of inheritance may also come into the possession of land but this is not commonplace.

**MANAGEMENT OF LAND UNDER THE CUSTOMARY LAND TENURE SYSTEM:**

The management of land is such that in the family is made available to individuals who may require them for according to their needs and this is usually portions of land in varying quantity made available to family members. Under the customary land tenure system the land is recognized to belong as family land will be controlled by such family and it will remain vested in such family. While communal lands is open to all the members of the community the right of disposal belonged only to the community. Such rights are freely exercised through traditional authorities, in accordance with customary law. Once land is allocated by the village leader to a member of the lineage, the land remains permanently within the family and is passed down to its heirs so long as it is not alienated[[5]](#footnote-5). The rights that maybe exercised by members of the community include: residuary rights, rights that involving being able to use land for occupational purposes. The right to use land, which majorly involves the use of land by members of the community for farming and similar agricultural purposes[[6]](#footnote-6). Also inclusive amongst this rights is the right to make a gain or derive income from land this closely related to proper exploitation of land in accordance with the accepted practice of the community. In some communities a person may be required to pay tributes to the communal head where one derives an income from communal land.

**DETERMINATION OF LAND FAMILY/COMMUNAL LAND:**

The alienation of land is generally considered to be the termination of the land ownership of a particular family and the end of their successive rights over such a land. Once a land is allocated by a village head to a member of a lineage it will remain in such family until such is alienated to an individual such an alienation would then terminate control of the family over such land. Also the alienation of a land held by the community would transfer control of such land to individual it is transferred to.

**CONCLUSION**

This has addressed inherent pitfalls in the customary system. The land holding system in the area exposed in this work is similar to what is found in Ekiti and this generally as a result of the relation between the States, this relationship is pronounced by the fact that the region of Ekiti itself was carved out from Ondo.

1. Food and Agricultural Organization of the United States, Nigeria Prevailing Land Tenure Systems, <<http://www.fao.org/gender-landrights-database/country-profiles/countries-list/land-tenure-and-related-institutions/en/?country_iso3=NGA>> accessed 23 April 2020. [↑](#footnote-ref-1)
2. ibid [↑](#footnote-ref-2)
3. Felix Ajibade, Land Tenure System in Ekiti State, <<https://www.fig.net/resources/proceedings/fig_proceedings/fig2015/papers/ts01b/TS01B_ajibade_7607.pdf> [↑](#footnote-ref-3)
4. ibid [↑](#footnote-ref-4)
5. Food and Agriculture Organization United Nations, supra [↑](#footnote-ref-5)
6. Ibid [↑](#footnote-ref-6)