Name: Adekunle Oluwatoni

Matric Number: 16/Law01/003

Course Title: Land Law

Course Code: LPB 402

Question: Prepare a brief paper, not more than three pages, 12pt, (Times New Roman 1.5 line spacing) on the customary land tenure system as practised 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. Note that the examiner expects you to write based on your research or knowledge acquired with respect to customary land tenure in your locality.

**INTRODUCTION**

The paper seeks to examine landholding systems under customary law. It shall explore the land tenure system under the Nigerian Customary law concerning the provisions of the Land Use Act. In spite of the confusion, the land Use Act brought on the customary land tenure system such that there was uncertainty as to the existence or abolishment of the customary land tenure system by the Act. The paper however seeks to confirm the existence of the customary land tenure system and goes further to identify the intricate customs and traditions of the customary land tenure system. The customary court was provided by law to decide land matters in rural areas, the constitution grants the customary or area court jurisdiction under the provision of Section 272 of the Constitution to handle matters provided under the scope of customary law. In Nigerian local communities there are different customary land ownership systems which includes, communal landholding can be described as community land which is vested in the community as a corporate whole in which no private individual can claim exclusive ownership to any portion of such land[[1]](#footnote-1)

**What is Customary Land Tenure System**

Customary land tenure systems were gotten from customary law which can be defined as a set of rules and customs that guide the practises and the actions of people in a particular geographical location which is strictly adhered to as law by the locals.

Customary land tenure system however can be defined as the system in which land ownership or the process for acquiring interest in land is determined by cultural practices, or tradition, of a particular tribe, region or locality. The acquisition of land can either be communal, family land or individually owned. It should also be noted that the customary land tenure system has been modified to a large extent, by the provisions of the Land Use Act, 1978. The Act provides for a more uniform land tenure system in Nigeria, in the case of H*akeem Sobande v. Barrister Andy Igbokwe*, the Supreme Court held that that the objective of the land use Act is not to destroy the efficacy of the Land Use Act but to modify its application.

In the south west geopolitical zone of Nigeria, Osun State, Oriade Local Government, a total of two hundred and sixty (260) respondents were selected for a study. Duly pretested and validated interview schedule was used to collect quantitative data from the respondents while qualitative data was elicited through Key Informant Interview sessions.

Validated and pre-tested interview schedule was used to elicit information on socio-economic characteristics of the respondents, land accessibility and community-related factors. The data was summarized using descriptive statistics while correlation analysis was used to make inferences. The dependent variable was conceptualized as level of accessibility to land by the farmers. The dependent variable was measured by calculating total land accessibility score of each respondent from indicators arising 8 methods of gaining access to land. perform ten identified roles in relation to land accessibility for rural enterprises using 3 points rating scale:3 for often performed, 2 occassionally performed and 1 never performed[[2]](#footnote-2).

Results and Discussions Socio-economic characteristics of the respondents Results in Table 1 show that majority (82.7%) were male while 17.3 percent were female. The results indicate that there were more men; dominating land-based rural economic activities such as farming than women. About 86.5 percent were married; this suggests that marital status seem to be an important social factor often considered for gaining access to land among farmers in the study area. Also, vast majority (92.3%) were from Yoruba ethnic group. This implies that Yorubas were the predominant inhabitants of the study area and ethnic background can determine accessibility to factors of production, especially land. Almost three-quarter (71.5%) were indigenes. It implies that they might have better and easy access to land because being an indigene of community favours land accessibility. Majority (70%) of the respondents were permanent residence while 30 percent resided temporarily. Permanent dwellers are likely to benefit from rights associated with nativity, such as easier access to landholdings and may not suffer from alien-ship. The mean year of residence was 43.08 ± 18.33 years. This implies that majority of the respondents had spent long years in their communities of residence. However, this does not necessarily mean that they were indigenes of the communities where they resided. A resident that had spent long years in a particular community may likely have easy access to community land and other factors of production.[[3]](#footnote-3) Results further show that majority (66.9%) indicated farming as their primary occupation. The result give credence to the submission of Ekong (2010) which reported that majority of rural dwellers engage in farming. However, the finding also suggests that rural dwellers also engaged in varieties of occupations other than farming of a person in reference to the land. This is contested in Africa, because the African community has a plethora of diverse cultures with unique land tenure systems that is usually agreed on by the locals, and usually adhered to by the people and protected by the law. Customary law.

Most notably, in a lot of countries it is now possible for customary rights to be registered without being extinguished and replaced with a different and highly individualized forms of tenure. In some cases, collectively held properties like forests and rangelands may also be titled to as belonging to a community.

It could be seen in this interview and interaction with Yoruba people practised a communal land holding system where with the community land is vested in the community as a corporate whole no individual interests or exclusive ownership in this land where people that are married men are at an added advantage of obtaining property better than unmarried men or women, also rural dwellers have a higher possibility of obtaining an interest in land better than indigenes who do not live within the vicinity or proximity of the communities where they are from.

However Section 42 and 43 of the Constitution specifically provides for the right for any citizen to acquire immovable property and right to freedom from discrimination, and the constitution overrides the provisions of customary law if it is ever inconsistent with the provisions of the constitution, and supremacy of the constitution is pivotal to the dispensation of justice.

1. Adewale Taiwo< *The Nigerian Land Law>* (Princeton & Associates Publishing & Co. Ltd) 2016. [↑](#footnote-ref-1)
2. Adedipe NO Olawoye ES, Olarinde ES& Okediran AY (1997) <Rural Communal Tenure Regimes and Private Land Ownership in Western Nigeria. Land Reform Bulletin

   <<http://www.fao.org/sd/LTdirect/R972/wt728t13htm>> Accessed 22 April 2020 [↑](#footnote-ref-2)
3. Adamu OC<2014>, Land Acquisition and Ttpes of Crops Cultivated by Farmers in Oyedaade Local Government Area, Osun State, Nigeria Asian Extension, Econ, & Sec 3(6);738-745.

   Cv . Accessed 22nd April 2020 [↑](#footnote-ref-3)