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**16/LAW 01/182**

**LAND LAW II [LPB 402]**

**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 of family or communal land in your locality.

**INTRODUCTION**

Land tenure is the name given particularly in common laws systems, to the legal regime in which land is owned by an individual, who is said to hold the land. Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. In simple terms, land tenure systems determine who can use what resources for how long and under what conditions.

Customary land tenure systems in Nigeria are related to family inheritance systems, and are based on the concept of group ownership of absolute right in land, with individuals acquiring usufructuary rights.[[1]](#footnote-1) Customary land rights establish the basis for access to land resources and the opportunity to use land for productive purposes. Tenure systems under customary law vary but, in principle, are restricted to usufruct rights. These may or may not be alienable, generally, or saleable, in particular. They may be perpetual or for certain periods only, or they may be solely for the lifetime of the holder.

**CUSTOMARY LAND TENURE SYSTEM IN IGBOLAND [IMO STATE].**

The concept of land ownership and inheritance especially among the people of south eastern Nigeria (Igboland), right before the colonial period, has always been that of absolute ownership which bestows the holder with the power of alienation. Alienation connotes the totality of the right of disposal over a thing which is not only the most conclusive but also, the most valuable incidence of ownership. This is what gave land inheritance its value. However, over time, there has been a drift in the popular perception of land tenure, ownership/inheritance by the people as a result of the changing economic importance of land.

Land to the Ibos of southeastern Nigeria is a property that has both religious, economic and political meaning. Among the Igbo, land is intricately connected with the social structure and questions relating to its tenure are inevitably tied up with future political and economic development. Development generally depends on the interaction of many diverse factors, one of the most important of which is the ability to adjust from the agrarian social structure to modern technological society.

Before the advent of colonialism in the east, inheritance among the people in various communities in eastern Nigeria was in the male lineal descendants. Land was inherited by the sons through their mothers essentially for agricultural purposes or residential purposes, for himself, his wives’ huts, barns and kitchen. Land was shared among the sons of the deceased with the first son taking the choicest piece of land. The mother then shares the other pieces of land amongst her children (the first son inclusive). The system however changed during the colonial era. Land was now inherited by the sons directly from the father’s possession and no longer through their mothers. The first still maintains the inheritance of the choicest piece of land and the others shared equally among the male siblings. Ownership was for perpetuity and it was difficult for land to be sold out rightly. The ideal practice was land pledging. Land pledging is a customary way of transferring land whereby the original owner of the title to a particular piece of land uses the land to either borrow money from an individual or a group of people. Land was only sold to strangers or to other members of the extended family under extreme economic need with the consent of members of the family. Communal land was shared among the people. No single individual owned communal land but the fruits were harvested and shared among the people and the money was used for the community development.

The prevailing practice is one where the first son of the deceased still maintains his right to pick the choicest piece of land but the right to own the father’s compound is not strictly observed anymore. The first son usually decides to leave his father’s compound for another plot of land so that his younger brother will inherit and make use of their father’s abode. This happens often when the first son has acquired enough wealth to build himself another house. Sale of land is no longer difficult. An individual now has the right to dispose of his inherited land in exchange for money if he so wishes. Land pledging too is fast phasing out due to the change in economic and customary system.

There are different categories of land tenure in eastern Nigeria. The first one is Communal Land Tenure, which is usually based on the inalienable and equal rights of joint ownership of land by every member of the community, with some appointed members, usually elders and titled men, given the responsibility to act on behalf of others as custodians of the land. Another category is Individual Land Tenure. Under this in ancient times, land was available to the individual owner for agricultural purposes, but may also be given out to others on a rental basis, especially for cultivation. One more category is the Public (State) Land. When the rate of change in the socio-economic structure o society is faster than the rate of change in customary law, the state often intervenes with statutes or policies of facilitate changes. Under customary tenure systems in eastern Nigeria, rudimentary powers of compulsory acquisition existed. Public rights were exercised whenever land was to be used for the ultimate benefit of the public in general[[2]](#footnote-2). “State land” means all public lands in eastern Nigeria which were subject to the control of the British Crown on 30 September 1960 and held for public purposes. It also includes all land thereafter acquired by or on behalf of the Government of Nigeria held for such purposes.

**CONCLUSION:** In conclusion, it can be seen that there have ben several changes in some aspects of the customary rules relating to the procedure for the acquisition of land. There has also been a change n the notion of the ‘inalienable’ nature of land. While in the past, the customary land law entirely prohibits sales of land, presently some members of community sell individually owned lands in exchange for money to meet other needs. Finally there have also been notable changes in communal ownership of land, which has resulted from the pressures on such land from individuals. These changes reflect the unique adaptation of the social organization of the community to externally induced changes, which accompanied the introduction of colonialism and the internal dynamics of the people’s culture.

**REFERENCES**

[www.eajournals.org](http://www.eajournals.org) **;** [www.researchgate.net](http://www.researchgate.net) **;** www.jstor.org

1. A usufruct is a legal right accorded to a person or party that confers the temporary right to use and derive income or benefit from someone else’s property. It is a limited real right that can be found in many mixed and civil law jurisdictions. A usufructuary is the person holding the property by usufruct. [↑](#footnote-ref-1)
2. Famoriyo, 1973 [↑](#footnote-ref-2)