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**COURSE TITLE**: LAND LAW II

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**ASSSIGNMENT**

**QUESTION**

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

**Answer**

**Definition of land tenure**

In common law systems, land tenure is the legal regime in which land is owned by an individual, who is said to ‘’hold the land’’. It determines who can use land, for how long and under what conditions. Tenure means land holding.

**Definition of customary law**

Customary law refers to traditional common rule or practice that has become an intrinsic part of the accepted and expected conduct in a community and is treated as a legal requirement. It concerns the laws, practices and customs of indigenous people and local communities.

**Definition of customary land tenure system**

Customary land tenure system refers to the systems that most rural African communities operate to express and order ownership, possession, and access and to regulate use and transfer of land. It is the system if landholding indigenous to Nigeria, relating to family and inheritance systems based on the concept of group ownership of absolute rights in land, with individuals acquiring rights. Customary land tenure is as much a social system as a legal code and from the former obtains its enormous resilience, continuity, and flexibility.

**Customary land tenure system in my locality (*IKOT ABASI*)**

A) **CREATION:**

This law was based on the customs of the people of *ikot abasi* before the advent of the colonial rule which brought about the land use act. The creation of customary land tenure was around the native laws of the people.

B) **OWNERSHIP:**

This signifies the highest claim to the land under the customary law. From my study it is divided into three, namely;

1. Family

2. Individual

3. Community

1. **FAMILY**

This is also called ‘*Ikot Ufok’*. This is the ancestral land, inherited by members of the family. No piece of this land can be sold by any member of the family to anybody. The head of the family allocates various land to members of the family and if there is any land related issue concerning the family it is brought to the head who is the *Mbong Ekpuk*.

2. **INDIVIDUAL**

This occurs when the family shares or sells the family property. This means that either each member is the owner of their own land or the property is sold to another person who is not in the family.

Forms of individual ownership in *Ikot Abasi* are;

* **Pledged land (*ikot ubiong*)**: this is a plot of land pledged by a man to another person, usually outside the family circle for a fee. The length of time pledged may or may not be fixed
* **Borrowed land (*mmum nkama ikot*):** in this case, the land is given to a friend from another family, or a distant relation. No fee is usually involved.
* **Rented land (*nto nwo*)**: this land is given to a person for a fee.

3. **COMMUNITY**

This is also called ‘*Ikot hon*g’. This land belongs to the entire village and no individual has any right use the land without the permission from the village council or council of chiefs, who are the custodians of all traditional lands. Disputes were brought to the *Obong* to settle.

There is also *ho ndem* or *akai ndem* or *akai ikot okpoho* which is a sacred land or burial ground set aside for shrines, burials and for the *Ekpo* and other societies. It is never tampered with.

C) **MANAGEMENT**

Customary land is managed according to its ownership. Communal land is managed by the *Obong* who settles any disputes concerning the communal land he holds in trust for the members of the community. Family land is managed by the head of the family who is the *Mbong ekpuk*. Individual land is managed by the person who owns the land or a he may appoint someone to do so.

D**) DETERMINATION**

Apart from lands owned by families, the remaining are considered communal lands and under the supervision of the *Obong* for the benefit of the people.

Family land can be determined by absolute transfer of its interest to another person which can be by sale or gift. It can also be determined by the act of sharing the property amongst the members of the family (partition).

**CONCLUSION**

It can be seen that customary land tenure still exists under the present national land tenure system as is practiced in IKOT ABASI. Land can be owned by families, individuals and also the community. Land can also be determined by absolute transfer or partition. I would advise for the amendment of the Land Use Act to bring it in line with the reality of the custom of the populace.

**References**

* http://alscon.net/traditional-and-culture/28-land-tenure.html
* my dad